S. Hrg. 99-726

MISCELLANEOUS TARIFF BILLS—1986

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

S. 438, S. 851, S. 854, S. 1288, S. 1651, S. 1709, S. 1809, S. 1981, S. 1987, S. 2104, and S. 2222

MAY 8, 1986

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MISCELLANEOUS TARIFF BILLS—1986

THURSDAY, MAY 8, 1986

U.S. Senate,
Subcommittee on International Trade,
Committee on Finance,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:34 p.m., in room SD-215, Dirksen Senate Office Building, Hon. John C. Danforth (chairman) presiding.

Present: Senators Danforth, Grassley, Mitchell, and Pryor.

[The prepared statement of Senator Mitchell follows:]

Statement of Senator George J. Mitchell, Hearings on S. 438, Legislation to Reduce Tariffs on Fishing Nets, May 8, 1986

The American commerical fisherman is constantly subject to unfair competition from a variety of foreign nations. The U.S. International Trade Commission, for example, recently determined that the Canadian groundfish industry is subsidized through a number of government-sponsored programs, and ordered the imposition of countervailing duties against that industry. Our fisheries trade deficit was $4.1 billion in 1984, and shows no sign of subsiding. Given this situation, it would make little sense to impose on a vital tool of the U.S. fisherman import duties which are significantly higher than those assessed by our major competitors. But this is exactly what we are doing in the case of synthetic netting.

Today we are considering legislation which I introduced at the beginning of this Congress which would immediately reduce the substantial import duty levied by our government on imports of synthetic nets and bourne by U.S. fishermen.

Netting is an important and expensive component of any fishing operation. A large Maine fishing vessel, for example, may purchase over $15,000 in netting during a twelve month period. At current tariff levels, if this netting is imported, over $3,400 plus 9 cents per pound of netting must be paid in import duties. The cost to a large U.S. tuna boat with expensive seine nets can be far greater. Needless to say, this is a significant cost which must be bourne by a wide variety of Atlantic, Pacific, and Gulf coast fishermen.

In 1979, the United States agreed to gradually reduce the extremely high 20-year old tariff on synthetic fish nets as part of the Multilateral Trade Negotiations. These staged reductions were than delayed two years. Because of this, the full reduction in the tariff, from 22.8% and 9 cents per pound this year to a simple 17% ad valorem, will not go into full effect until 1989. This means substantial additional costs to American commercial fishermen at a time when they are already facing mounting financial and competitive pressure.

This bill will help our fishermen compete with their subsidized competition. It will help to reduce our substantial fisheries trade deficit. It will reduce the inequity created when U.S. fishermen pay higher tariffs than their foreign counterparts. And it will allow American fishermen access to a quality and variety of nets not available in the United States.

Failure to enact this legislation will mean continued unfair treatment of over 100,000 commerical fishermen from all parts of the United States. The reduction to a 17% ad valorem rate should take place, not three years from now, but immediately.

Press Release No. 86-039

FINANCE COMMITTEE POSTPONES HEARING ON MISCELLANEOUS TARIFF BILLS—1986

Because of a conflict with the schedule for consideration of tax reform legislation, the International Trade Subcommittee hearing on miscellaneous tariff bills, originally scheduled for the afternoon of May 5, 1986 has been postponed. The hearing is now scheduled to take place on Thursday, May 8, beginning at 2:30 p.m. in Room SD-215. Chairman Danforth will preside.

The bills on which testimony will be heard are as follows:

S. 438—(Mitchell) duty on fish netting and fishing nets.
S. 851—(Heinz) tariff on 1,5 naphthalene diisocyanate.
S. 854—(Bumpers) markings for imported watches and clocks.
S. 1288—(Danforth) classification of TV apparatus.
S. 1651—(Gorton) duty for p-hydroxybenzoic acid.
S. 1709—(Johnston) duty on necktie imports.
S. 1809—(Dole) importation of Soviet furskins.
S. 1981—(Murkowski) duty on surimi.
S. 1987—(Wallop) tariff on sodium bicarbonate.
S. 2104—(Heinz) classification of work gloves.
S. 2222—(Gorton) duty on plywood.

Witnesses whose requests to testify were granted have been notifed.

Senator **DANFORTH**. We have a list of something like 24 witnesses who are scheduled to testify today. Obviously, it is going to be an extremely long afternoon and evening if we depart from the suggested length of time for your testimony.

I want to assure all witnesses that your complete statements will be included in the record automatically; you don't have to ask for permission. You don't have to waste any of your 3 minutes asking for permission. [Laughter.]

And you don't have to waste any of your 3 minutes thanking us for the wonderful privilege of appearing before us. [Laughter.]

We will consider ourselves thanked and complimented—otherwise, buttered up—and we will read your statements. They will be inserted into the record.

So, my suggestion to you is that you get right into the heart of your message and not say, "Could I have 1 or 2 more minutes?" Please don't do that, because if all 24 people want 2 more minutes, you won't be able to leave. I won't be able to leave. [Laughter.]

Senator Grassley, do you have any comments?

Senator **GRASSLEY**. Well, I don't have an opening statement. I want to point out that I have three bills on the list, but on the eighth panel I have a constituent, Charles Perrin, president of the National Board of Fur Farm Organizations from Cherokee, IA.

I have had a chance to listen to Mr. Perrin's point of view in my office this morning. I am not going to be able to be here when he is testifying, because I am on the floor of the Senate with bankruptcy legislation—farm bankruptcy legislation.

In regard to Mr. Perrin's testimony, I would just ask the committee to listen closely and to understand that there are a lot of things about agriculture that maybe we can't solve here in Washington; but there is a way in which part of this legislation is going to hurt a segment of agriculture in my State that Mr. Perrin is associated with, and we do have an opportunity to do something about it. Now, whether we want to is another issue, but the point is we ought to listen, and this is something that we can do something about.

We will be making a decision on it positively or negatively, to the benefit of his segment of agriculture.

Thank you, Mr. Chairman.

Senator **Danforth**. Very good. Thank you very much.

Senator Pryor.

Senator **Pryor**. Mr. Chairman, thank you.

I agree wholeheartedly with all of the requests that you make of these panels, except one: I think that if they want to butter us up, we ought at least to allow them to make a separate statement just for the record. [Laughter.]

And we can send that back home. [Laughter.]

No, I thank you, Mr. Chairman. I am honored to be here.

Senator **Danforth**. All right.

Well, we are happy to have Senator Murkowski with us. Senator, thank you very much.

Senator, thank you very much.

STATEMENT OF HON. FRANK H. MURKOWSKI, U.S. SENATE, STATE OF ALASKA

Senator **Murkowski**. Thank you, Mr. Chairman.

First of all, I want to notify the committee and Senator Pryor in particular that I do have a very lengthy statement commending the committee on their actions and contemplated actions, which I will insert for the record. [Laughter.]

Mr. Chairman, I appreciate being here, as you have already acknowledged, in behalf of Senate bill S. 1981. It is a surimi bill.

Surimi, as you know, is a processed fish product. We passed out 150-some copies of this testimony in the bill itself and the amendment, so I assume by now the committee staff knows what surimi is. It is a processed fish product. They should know by now how it is made and how it is being marketed in the United States today.

I am also pleased to note that on this legislation Senators Heinz, Grassley, Stevens, and McClure are the original cosponsors of the bill.

We need a tariff on surimi for two reasons: First, it is the first step in putting our emerging surimi industry on an equal footing with Japan; and, second, it sends a message to Japan that it must eliminate its trade barriers on surimi.

It is well known that Japan has used trade barriers to protect its developing industries for a long time. You and I, Mr. Chairman, are very much aware of that.

In the late 1970's, Japan's import quotas on surimi and bottomfish amounted to about 10 percent. In 1976 we passed the Magnuson Fishery Act—my colleague, the senior Senator from Alaska, Senator Stevens—was very instrumental in that. In 1979 we asked Japan to reduce its tariff from 10 percent to 3 percent. They refused, and countered with a 6-year reduction schedule that is in its final stage this year. Their tariff is now at 6 percent and is one of several detriments to our own exports and our own developing industry.

Japan's industry is still very much protected, but our growing industry is not. We have no import quota on surimi in the United

States, and the bulk of foreign surimi enters the United States duty-free.

It is felt, Mr. Chairman, that the United States surimi processing industry, which is coming on line, will soon be in a position to export to Japan.

The first surimi plant in my State, Kodiak, AK, has been operating for over 1 year; it is beyond the experimental stage now. A second plant has opened at Dutch Harbor in Alaska, and at least two more operations, one a shore base and one floating, are expected to be in operation later this year.

I might add, Mr. Chairman, that surimi is not only a phenomenon of Alaska; seafood processors in Massachusetts, Virginia, Washington State, and other areas, are studying the feasibility of surimi production. Shipyards from Florida to Washington are designing surimi factory ships which will employ American labor and utilize American crews and American fishermen.

Over 450 food and equipment companies in 32 States are experimenting with surimi as a base for their food products; and for any Italians in the audience, they are even making Italian sausage out of surimi. It is truly a food technology revolution for the United States.

Meanwhile, Japan, the country that invented surimi, has had complete control of the global surimi business. At first, Japan sold surimi-based products like imitation crab legs into the United States market; but, as the United States secondary processors built plants to produce imitation crab legs, Japan has become more of a supplier of the raw surimi.

While there is no single tariff category for surimi, much of it enters the United States, as I said, duty-free.

I think it is ironic that most of the surimi that Japan exports to the United States is made from fish caught in United States waters, mostly off my State of Alaska, the State with some 32,000 miles of coastline.

Under our current fisheries management philosophy, Japan is allowed to buy the fish and produce surimi within our 200-mile limit zone until United States processors can compete in this area.

Starting from scratch is always tough when you are up against established competition, but it is even tougher when competition has an artificial trade advantage. Why should we allow Japan to sell surimi into the United States duty free when we have to pay a tariff to sell our surimi into Japan?

I don't like tariffs, Mr. Chairman, and I know you don't like them either; but, when our main competition puts a duty on our product, we need to use the leverage we have, and that is the leverage of being the best customer, to eliminate that barrier. And sometimes a matching tariff is the best leverage.

If other countries erect trade barriers to give their industries the advantage—and Japan is a master at this—we need to send them the message that we are against that practice.

Mr. Chairman, I understand, as I have stated, that Japan has dropped its tariff from 6.5 to 6 percent in March, following the tariff reduction schedule in the 1979 GATT Tokyo round. When I introduced my bill in December, the tariff I asked for was 6.5 percent, to match the Japanese tariff. Because I am interested in tariffs only for the purpose of reciprocity, I would ask that the committee modify my bill to reflect the lower rate, 6 percent.

Furthermore, Japan should be given a reasonable opportunity to eliminate its tariff, and therefore, in my modification and amendment, I am amending my bill to give Japan 1 year to remove its surimi tariff. The amendment would delay the enactment of this tariff for 1 year, as an incentive for Japan to act. At the end of 1 year, if Japan has not eliminated its tariff, then my surimi tariff would go into effect at a rate equal to that prevailing on the Japanese tariff.

So, to make it quite clear, Mr. Chairman, I am proposing that this tariff only be applicable after 1 year of time has elapsed. If Japan takes its tariff off prior to that, obviously there is no need to proceed with the legislation. If Japan sees fit not to, a U.S. tariff would become effective in 1 year.

I thank you for the opportunity to appear, and I appreciate the time allocated to me.

I would be happy to answer any questions.

Senator DANFORTH. Senator Murkowski, thank you very much.

Senator Pryor, do you have any questions?

Senator PRYOR. No questions, Mr. Chairman.

Senator DANFORTH. Has the administration taken a position on your bill?

Senator MURKOWSKI. I would like to say that the administration is still considering it.

Senator DANFORTH. Well, my guess is that you will probably get a phone call from Admiral Poindexter, complaining about your criticism of the Japanese. [Laughter.]

Senator MURKOWSKI. It wouldn't be the first time I have gotten a phone call, and it won't be the last. But I would suggest that I think the principle here is a legitimate one. It is one of utilizing the leverage, it is one of simply sending a message to Japan, "Hey, we've got a year. Knock yours off, and our tariff won't be necessary."

Senator DANFORTH. I must say that it seems to me to be reasonable. If they are catching the fish in our waters and shipping it duty free into the United States, and imposing a 6-percent tariff on our shipments of the same product into their market, it seems to me to be reasonable, at least at first blush, for us to want to be treated equally, reciprocally, rather than in this unbalanced way.

But we will look at this legislation very carefully, and thank you for your testimony.

Senator MURKOWSKI. Thank you, Mr. Chairman.

I don't know if there is a Japanese translation for the American saying that "charity begins at home," but that is what this is all about.

Senator DANFORTH. Thank you very much, Senator.

[The written prepared testimony of Senator Murkowski follows:]

HEARING STATEMENT OF
SENATOR MURKOWSKI
INTERNATIONAL TRADE SUBCOMMITTEE
SURIMI TARIFF (S.1981)
MAY 8, 1986

MR. CHAIRMAN, I APPRECIATE BEING ABLE TO TESTIFY TODAY ON BEHALF OF MY BILL S.1981. SURIMI, AS YOU KNOW, IS A PROCESSED FISH PRODUCT. I TRUST THAT THE INFORMATION I HAVE PROVIDED THE COMMITTEE GIVES YOU A GOOD IDEA OF HOW SURIMI IS MADE AND HOW IT IS BEING MARKETED IN THE U.S. TODAY.

I AM PLEASED TO NOTE THAT SENATORS HEINZ, GRASSLEY, STEVENS, AND MCCLURE HAVE CO-SPONSORED THIS BILL, TWO OF WHOM ARE MEMBERS OF THIS SUBCOMMITTEE.

A TARRIF ON SURIMI IS NEEDED FOR TWO REASONS: FIRST, IT IS THE FIRST STEP IN PUTTING OUR EMERGING SURIMI INDUSTRY ON AN EQUAL FOOTING WITH JAPAN, AND SECOND, IT SENDS A MESSAGE TO JAPAN THAT IT MUST ELIMINATE ITS TRADE BARRIERS ON SURIMI.

THE U.S. SURIMI PROCESSING INDUSTRY IS COMING ON-LINE AND WILL SOON BE IN A POSITION TO EXPORT TO JAPAN. THE FIRST U.S. SURIMI PLANT IN KODIAK, ALASKA HAS BEEN OPERATING FOR OVER A YEAR AND IS NOW OUT OF THE EXPERIMENTAL PHASE. A SECOND PLANT HAS JUST OPENED AT DUTCH HARBOR, ALASKA. AT LEAST TWO MORE OPERATIONS -- ONE A SHORE PLANT AND THE OTHER A FLOATING FACTORY

SHIP -- ARE EXPECTED TO BEGIN OPERATIONS THIS YEAR. WITH A GROWING U.S. MARKET FOR SURIMI-BASED PRODUCTS SUCH AS IMITATION CRAB LEGS, AND THE HUGE JAPANESE MARKET THAT IS ALREADY LOOKING FOR U.S. SUPPLIES, WE CAN EXPECT THE U.S. PROCESSING SECTOR TO CONTINUE TO GROW.

I MIGHT ADD THAT SURIMI IS NOT JUST AN ALASKA PHENOMENON: SEAFOOD PROCESSORS IN MASSACHUSETTS, VIRGINIA, AND WASHINGTON STATE ARE STUDYING THE FEASIBILITY OF SURIMI PRODUCTION; SHIPYARDS FROM FLORIDA TO WASHINGTON ARE DESIGNING SURIMI FACTORY SHIPS; AND OVER 450 FOOD AND EQUIPMENT COMPANIES IN 32 STATES ARE EXPERIMENTING WITH SURIMI AS A BASE FOR THEIR FOOD PRODUCTS. THIS IS TRULY A FOOD TECHNOLOGY REVOLUTION FOR THE UNITED STATES.

MEANWHILE JAPAN, THE COUNTRY THAT INVENTED SURIMI, HAS HAD COMPLETE CONTROL OF THE GLOBAL SURIMI BUSINESS. AT FIRST JAPAN SOLD SURIMI-BASED PRODUCTS LIKE IMITATION CRAB LEGS INTO THE U.S. MARKET. BUT AS U.S. SECONDARY PROCESSORS BUILT PLANTS TO PRODUCE THE IMITATION CRAB LEGS, JAPAN HAS BECOME MORE OF A SUPPLIER OF THE RAW SURIMI. WHILE THERE IS NO SINGLE TARIFF CATEGORY FOR SURIMI, MUCH OF IT ENTERS THE U.S. DUTY FREE.

IT IS IRONIC THAT MOST OF THE SURIMI THAT JAPAN EXPORTS TO THE U.S. IS MADE FROM FISH CAUGHT IN U.S. WATERS, MOSTLY OFF ALASKA. UNDER OUR CURRENT FISHERIES MANAGEMENT PHILOSOPHY, JAPAN IS ALLOWED TO BUY FISH AND PRODUCE SURIMI WITHIN OUR 200 MILE ZONE UNTIL THE U.S. PROCESSING SECTOR CAN COMPETE ON THE WORLD

MARKET. STARTING FROM SCRATCH IS ALWAYS TOUGH WHEN YOU ARE UP AGAINST ESTABLISHED COMPETITION, BUT IT'S EVEN TOUGHER WHEN THE COMPETITION HAS ARTIFICIAL TRADE ADVANTAGES. WHY SHOULD WE ALLOW JAPAN TO SELL SURIMI IN THE U.S. DUTY FREE WHEN WE HAVE TO PAY A TARIFF INTO JAPAN?

IN GENERAL I DON'T LIKE TARIFFS, BUT WHEN OUR MAIN COMPETITION PUTS A DUTY ON OUR PRODUCTS, WE NEED TO USE LEVERAGE TO ELIMINATE THAT BARRIER, AND SOMETIMES A MATCHING TARIFF IS THE BEST LEVERAGE. IF OTHER COUNTRIES ERECT TRADE BARRIERS TO GIVE THEIR INDUSTRIES AN ADVANTAGE (AND JAPAN IS THE MASTER OF THIS), WE NEED TO SEND THEM THE MESSAGE THAT WE ARE AGAINST THAT PRACTICE.

I UNDERSTAND THAT JAPAN'S TARIFF ON SURIMI DROPPED IN MARCH FROM 6.5 PERCENT TO 6 PERCENT, FOLLOWING A TARIFF REDUCTION SCHEDULE IMPLEMENTED AT THE 1979 GATT TOKYO ROUND. WHEN I INTRODUCED MY BILL IN DECEMBER, THE TARIFF I ASKED FOR WAS 6.5 PERCENT, TO MATCH THE JAPANESE TARIFF. BECAUSE I AM INTERESTED IN TARIFFS ONLY FOR THE PURPOSE OF RECIPROCITY, I ASK THAT THE COMMITTEE MODIFY MY BILL TO REFLECT THE LOWER TARIFF RATE, 6 PERCENT.

FURTHERMORE, JAPAN SHOULD BE GIVEN A REASONABLE OPPORTUNITY TO ELIMINATE ITS TARIFF, AND I AM THEREFORE AMENDING MY BILL TO GIVE JAPAN ONE YEAR TO REMOVE ITS SURIMI TARIFF. THIS AMENDMENT WOULD DELAY THE ENACTMENT OF THIS TARIFF FOR ONE YEAR AS AN

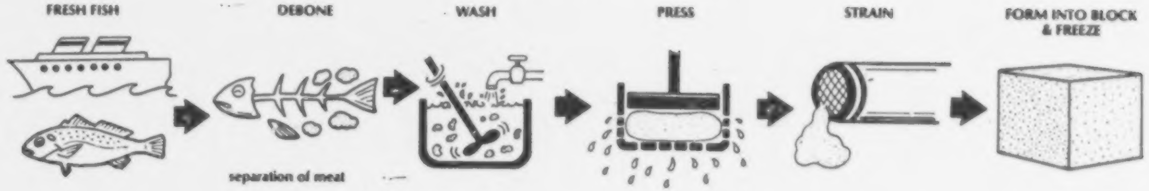
INCENTIVE FOR JAPAN TO ACT. AT THE END OF ONE YEAR, IF JAPAN HAS NOT ELIMINATED ITS TARIFF, MY SURIMI TARIFF WOULD GO INTO EFFECT AT A RATE EQUAL TO THE PREVAILING JAPANESE TARIFF. I ANTICIPATE THAT, AFTER ONE YEAR, JAPAN'S TARIFF ON SURIMI WILL BE SOMEWHERE BETWEEN 6 PERCENT AND ZERO.

THANK YOU FOR YOUR SUPPORT OF THIS BILL.

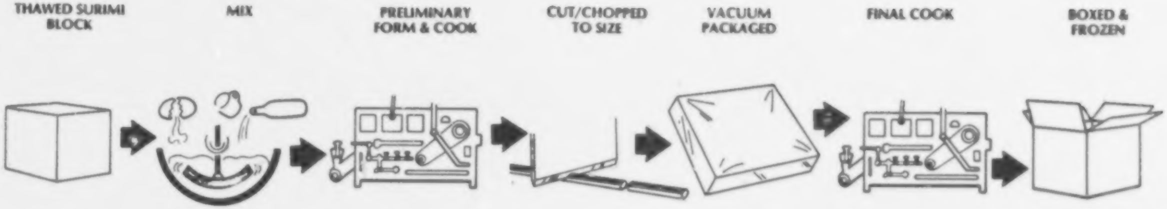
SEAFEST

HOW SEAFEST IS MADE

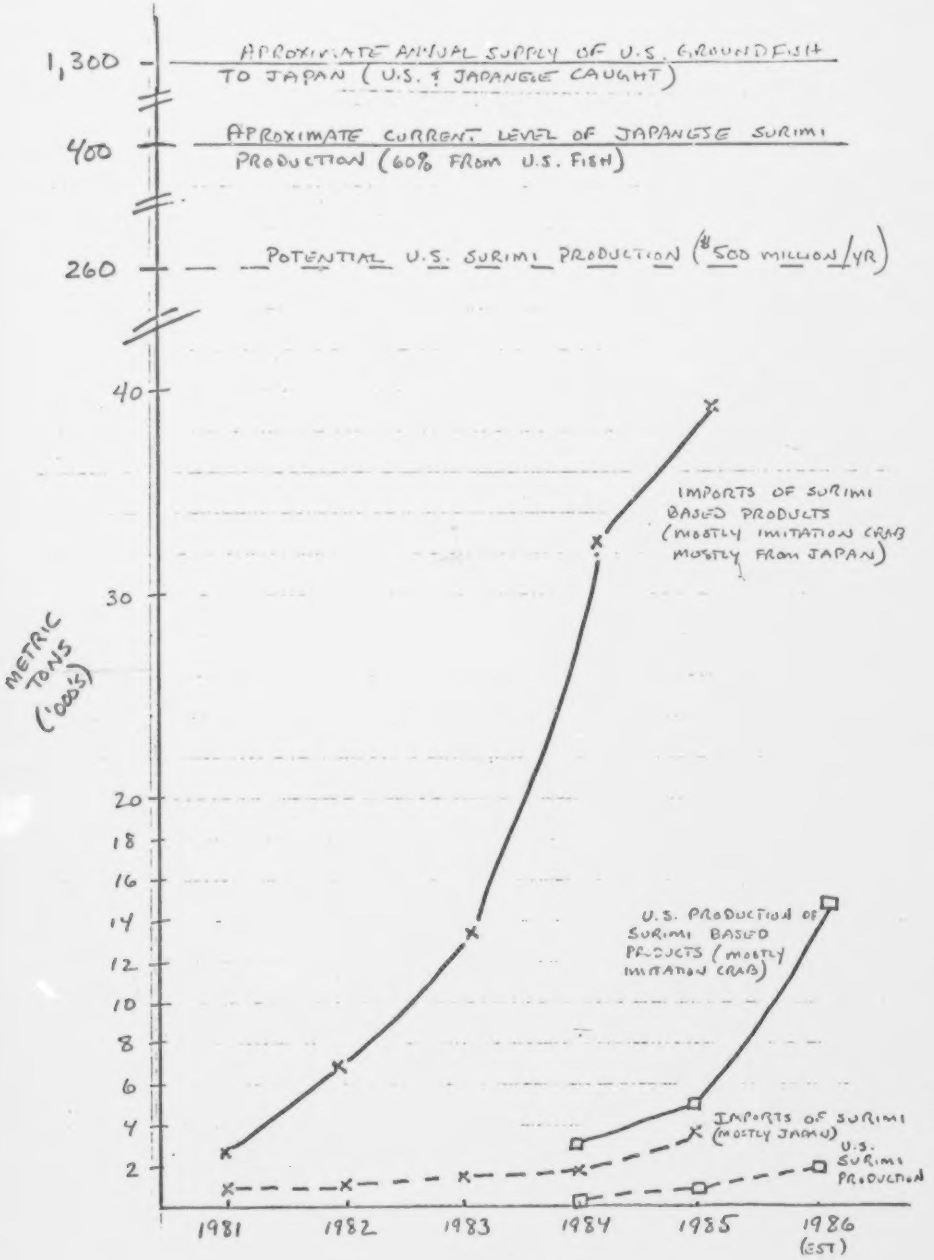
SURIMI PRODUCTION (on-board factory ship - Bering Sea)


FRESH FISH
DEBONE
separation of meat
WASH
PRESS
STRAIN
FORM INTO BLOCK & FREEZE

SEAFEST PRODUCTION (Motley)


THAWED SURIMI BLOCK
MIX
PRELIMINARY FORM & COOK
CUT/CHOPPED TO SIZE
VACUUM PACKAGED
FINAL COOK
BOXED & FROZEN

INTERNATIONAL MULTIFOODS.


1,300
APPROXIMATE ANNUAL SUPPLY OF U.S. GROUNDFISH TO JAPAN (U.S. & JAPANESE CAUGHT)
400
APPROXIMATE CURRENT LEVEL OF JAPANESE SURIMI PRODUCTION (60% FROM U.S. FISH)
260
POTENTIAL U.S. SURIMI PRODUCTION ($500 MILLION/YR)
METRIC TONS ('000S)
40
30
20
18
16
14
12
10
8
6
4
2
IMPORTS OF SURIMI BASED PRODUCTS (MOSTLY IMITATION CRAB MOSTLY FROM JAPAN)
U.S. PRODUCTION OF SURIMI BASED PRODUCTS (MOSTLY IMITATION CRAB)
IMPORTS OF SURIMI (MOSTLY JAPAN)
U.S. SURIMI PRODUCTION
1981
1982
1983
1984
1985
1986 (EST)

CURRENT TARIFFS (Note: Surimi and surimi based products currently enter the U.S. under a variety of tariff categories; It appears that there may be inconsistencies in how U.S. Customs treats surimi imports; Tariff category descriptions used here are not official Customs language.)

U.S. TARIFF CATEGORIES UNDER WHICH IMITATION SEAFOOD PRODUCTS LIKELY TO ENTER

112.14	6.0%	Fish products, not formed or shaped, (flakes, shreds, salad pack), in airtight containers, made from pollock.
112.36	6.0%	Same as above, not made from pollock
113.08	0 %	Fish products, formed or shaped (imitation crab legs), 15 lbs. or less, airtight container.
113.11	6.0%	Same as above, not airtight container
113.15	0.8%	Same as above, over 15 lbs.
183.05	10.0%	Products made from both fish and shellfish, regardless of shape, form, or package (imitation crab legs made from fish and crab)

U.S. TARIFF CATEGORIES UNDER WHICH SURIMI BLOCKS LIKELY TO ENTER

113.5820 113.5840	0 %	Bulk raw surimi blocks, over 15 lbs, not in airtight containers.
113.6020	6.0%	Surimi blocks, 15 lbs. or less, not airtight.
112.14	6.0%	Surimi blocks, pollock, in airtight containers
112.36	6.0%	Surimi blocks, other than pollock, in airtight containers

JAPANESE TARIFF UNDER WHICH U.S. SURIMI WOULD ENTER

03.01/231	6.0%	"Tara"; frozen fish excluding fillets; pollock, cod, hake.

(NOTE: At the last round to Multilateral Trade Negotiations in Tokyo, the U.S. asked Japan to reduce this tariff to 3%. Japan responded with a 6 year gradual reduction from 10% to 6%. The rate went from 6.5% to 6% in March 1986.)

U.S. SURIMI PRODUCTION CAPABILITY

Alaska Pacific Seafoods (parent company, Marubeni)
- Kodiak, Alaska
- First surimi production plant in the U.S.
- 1985 start-up
- Just finished experimental phase
- 860 metric tons production to date
- Quality: improving, not as good as at-sea production; 60% of production has been sold, remainder given away as samples.
- Estimated production capacity: at least 2,500 metric tons/yr.

Greatland Seafoods (Unisea/Seattle & Nippon Suisan)
- Dutch Harbor, Alaska
- Began production March 1986
- Estimated annual production: at least 5,000 mt/yr
- Construction cost: $10 million
- Employment: 150-200 workers

Alyeska Seafoods (Wards Cove/Seattle, Marubeni, Taiyo)
- Dutch Harbor, Alaska
- Start up late 1986, early 1987
- Construction cost: $10 million
- Est. annual production: at least 5,000 metric tons/yr.

Factory Trawlers (planned)
- Francis Miller (Seattle), on-line in 1986.
- American Shipbuilding Company (Tampa, Florida)
- Refit / Construction cost: $10-20 million

U.S. SURIMI PRODUCTION POTENTIAL

Alaska Pollock resource approximately 1.3 million metric tons/yr.

At 20% recovery for surimi, equal to 260,000 metric tons/yr. (Note that Japan currently produces over 400,000 mt/yr)

At $.90/lb sales price for surimi, equals $500 million/yr primary processing industry.

U.S. INTEREST IN SURIMI

* Virginia: Zapata Haynie Corporation (Reedsville) is building a plant to produce surimi from menhaden. Project development grant money ($ 750,000) from U.S. Government.

* Massachusets: Massachusetts Industrial Finance Agency has $1.5 million to award to fish processors from State revolving fund. Top priority is surimi production.

* Washington: Seafood industry has already invested in surimi and surimi product processing, estimated at $2.5 - $7.5 million.

* Florida: The American Shipbuilding Company has spent $500,000 on surimi processing studies.

* 32 states, in which 450 food and food processing equipment companies are studying surimi technology and application to U.S. food products.

ESTIMATED 1986 U.S. SURIMI ANALOGUE PRODUCTION

(Mostly imitation crab, see Table for growth figures)

* 13 companies, 7 with Japanese or Korean involvement.

* Located in Washington State, California, Minnesota, North Carolina.

* Construction cost: approx. $2.5 million/plant

SURIMI EXPORTING COUNTRIES

* Japan is major exporter ; dominant control by Taiyo and and Nippon Suisan

* Korea growing as surimi producer: expected to have 10 lines producing in 1986, exporting approx 3,000 metric tons to U.S.

JAPANESE PRODUCTION AND CONSUMPTION OF SURIMI AND SURIMI PRODUCTS

* See TABLE for surimi production growth.

* 3000 companies make hundreds of surimi-based products equivalent to 1/4 of Japan's seafood consumption. Japanese consume surimi at levels comparable to American consumption of breakfast cereals.

* Approximately 45% surimi produced at shoreplants, 55% at sea.

019920.124 S.L.C.

AMENDMENT NO. ___ Calendar No. ___

Purpose: To provide a duty on surimi 1 year after the date of enactment that is equal to the duty Japan imposes on surimi at that time.

IN THE SENATE OF THE UNITED STATES--99th Cong., 2d Sess.

S. 1981

To provide a duty on surimi.

Referred to the Committee on ______________________________ and ordered to be printed

Ordered to lie on the table and to be printed

Amendment In the Nature of a Substitute intended to be proposed by Mr. Murkowski

Viz:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) on the date that is 1 year after the date of enactment of this Act, the Secretary of the Treasury shall determine the rate of duty, if any, which Japan imposes on surimi imported into Japan. Such determination shall be published in the Federal Register.

(b)(1) If the Secretary of the Treasury determines under subsection (a) that Japan imposes a duty on surimi imported into Japan, the President shall, by no later than the date that is 15 days after the date on which such determination is made, proclaim a duty on surimi at a rate equal to the rate of duty imposed by Japan that is determined under subsection (a).

(2) The duty proclaimed under paragraph (1) shall apply to surimi entered, or withdrawn from warehouse, for consumption in the customs territory of the United States after the date that is 30 days after the date on which the determination is made under subsection (a).

(3) The duty proclaimed under paragraph (1) shall apply in lieu of any other duty imposed before the date of such proclamation on surimi under schedule 1 of the Traiff Schedules of the United States.

Senator DANFORTH. Next we have a panel on S. 438. The panel consists of Irving Smith on behalf of the Pacific Northwest Fishnet Importers, and Robert Batey on behalf of the American Cordage and Twine Manufacturers.

Senator Mitchell, because this is his bill, would you like to make a statement?

Senator MITCHELL. Thank you very much, Mr. Chairman, I appreciate it.

I look forward to hearing the testimony from the witnesses on this legislation. I would like to make just a brief statement, then I will ask that my full statement be inserted in the record as though read, at the appropriate point.

American commercial fisherman are constantly subject to unfair competition from foreign nations. The United States International Trade Commission, for example, recently determined that the Canadian groundfish industry is subsidized through a number of Government-sponsored programs and ordered the imposition of countervailing duties against that industry.

We have a substantial fisheries trade deficit which shows no sign of subsiding. Given this situation, it would make little sense to impose, on a vital part of the U.S. fishermen, import duties which are significantly higher than those assessed by a major competitor; but that is exactly what we are doing in the case of synthetic netting.

Today we are considering legislation which I introduced, which would immediately reduce the substantial import duty levied by our Government on imports of synthetic nets borne by U.S. fishermen.

Netting is an important and expensive component of many fishing operations. A large Maine fishing vessel, for example, may purchase over $15,000 in netting during any 12-month period. At the current tariff levels, if this netting is imported, over $3,400 plus 9 cents per pound of netting must be paid in import duty. The cost to a large U.S. tuna boat with expensive seine nets can be far greater.

Needless to say, this is a significant cost which must be borne by a wide variety of fishermen in the Atlantic, Pacific, and the gulf coast.

In 1979, the United States agreed to gradually reduce the extremely high 20-year-old tariff on synthetic fishnets as part of the multilateral trade negotiations. These staged productions were then delayed for 2 years. Because of this, the full reduction in the tariff—22.8 percent, and 9 cents per pound this year, a simple 17 percent ad valorem—will not go into effect until 1989. This means substantial additional cost to American commercial fishermen at a time when they are already facing mounting financial and competitive pressures.

This bill will help our fishermen compete with their frequently subsidized competition. It will help to reduce our substantial fisheries trade deficit. It will help to reduce the inequity created when U.S. fishermen pay higher tariffs than their foreign counterparts. And it will allow American fishermen access to a quality and variety of nets not available in the United States.

Failure to enact this legislation will mean continued unfair treatment of over 100,000 commercial fishermen in all parts of the United States.

The reduction to a 17-percent ad valorem rate should take place now. Not 3 years away, but now.

Mr. Chairman, I thank you for the courtesy of permitting me to make this statement, and I look forward to hearing from the witnesses.

Senator DANFORTH. Thank you, Senator Mitchell.

Mr. Smith.

STATEMENT OF IRVING SMITH, ESQ., LAW OFFICE OF GEORGE R. TUTTLE, WASHINGTON, DC; ON BEHALF OF THE PACIFIC NORTHWEST FISHNET IMPORTERS

Mr. SMITH. Thank you, Chairman Danforth.

We represent a number of Northwest gill net importers, among them Seattle Marine Fishing Supply Co., Redden Net Co., Lumey Fishery Supply Co., Tacoma Marine Supply Co., Astoria Marine Supply, and Englund Marine Supply.

In keeping with your admonition to be brief, I will make the four major points that are more fully covered by our written submission to you, gentlemen.

First, current tariff rates for fishnetting are excessive and should be immediately reduced to the amount negotiated at the General Agreement on Tariff and Trade, that is, 17 percent.

This reduction is necessary to protect the U.S. fishing industry from excessive costs for quality fishnetting.

Two, the domestic fishnet manufacturers have had the benefit of a comparatively high tariff rate since the enactment of the Smoot-Hawley tariff in 1930, and therefore their claims that a high tariff is necessary to allow for a strengthened industry merely serve to obscure the real issue: the failure of the domestic industry to vigorously and competently pursue the manufacture of marketable and efficient fishnetting for the American fishermen.

Three, there are a number of reasons the domestic netting industry may have problems, none of which are related to the tariff rate.

Where the domestic industry has provided high-quality netting, they have controlled the market. Where they have not, imports have controlled the market. Pricing has not been the main factor.

For example, in the salmon-gill netting sector of the industry, the Japanese have supplied the bulk of the market, despite prices much higher than those of the domestic industry. Therefore, a change in the tariff rate will not generally affect the domestic industry.

Last, few industries in the United States are given the benefit of a 17-percent tariff on similar imported items. This reduction is not drastic and is necessary to increase the productivity of our American fishing industry, which must depend to some degree on imported netting.

Thank you.

Senator DANFORTH. Thank you, Mr. Smith.

Mr. Batey.

[The written prepared testimony of Mr. Smith follows:]

TESTIMONY OF IRVING W. SMITH, JR.
IN SUPPORT OF S. 438

May 5, 1986

I. SUMMARY AND INTRODUCTION

I am Irving W. Smith, Jr., an attorney with the Law Offices of George R. Tuttle, appearing today before the Subcommittee on International Trade of the Committee on Finance of the U.S. Senate in support of S. 438, on behalf of the following Pacific Northwest importers of salmon gill netting:

1. Seattle Marine Fishing Supply Co.;
2. Redden Net Co.;
3. LFS, Inc.;
4. Tacoma Marine Supply;
5. Astoria Marine Supply, and;
6. Englund Marine Supply.

As importers of salmon gill netting, all of our clients are acutely aware of the problems which the excessive tariff rates for fish netting of man-made fibers pose for their customers. Our clients do not seek a windfall from this legislation. Rather, they hope to encourage and sustain the industry upon which their livelihood depends -- the United

States fishing industry. In this regard, it is important that all of our clients currently have substantial dealings with the United States manufacturers of fish netting. However, fisherman are at times required to import based on availability and qualitative factors as will be explained in the body of this statement.

The Senate Bill, S. 438, would amend the Tariff Schedules to reduce the tariff rate for TSUS Item 355.45 (fish netting and fish nets of man-made fiber) from the present rate of nine cents per pound and 22% ad valorem to 17% ad valorem with no per pound assessment. The General Agreement on Tariffs and Trade provided for a gradual reduction of the rate for Item 355.45 to 17% in 1989 and S. 438 would simply accelerate the reductions to this rate on or after the enactment of this bill by Congress.

II. BACKGROUND OF U.S. TARIFF CLASSIFICATION OF FISH NETS AND NETTING

The domestic fish net manufacturers have had the benefit of a comparatively high tariff rate since the enactment of the Smoot-Hawley Tariff in 1930. Therefore, they have had fifty-five years of the protection of a high tariff on foreign products, yet still have claimed the need for time to "adjust." (Miscellaneous Tariff and Trade Bills: Hearings Before the Subcommittee On Trade of The House Committee On

Ways and Means, 97th Cong., 2d Sess. 154 (1982) Statement of Joseph R. Amore.)

As early as 1921, American manufacturers of gill netting asserted that "recent quotations by foreign manufacturers both on the Continent and in Japan have convinced us that the ad valorem duty of 10% recommended by the Ways and Means Committee must be increased to at least 40% if this class of netting is to continue as a manufactured article in this country." (Senate Hearings on H.R. 2667, Tariff Act of 1929, p. 3461, Vol. IX.)

Prior to the 1960's, there was no significant foreign or domestic manufacturing of man-made fiber fish netting. Fish netting was usually made of flax, hemp, ramie, cotton, or linen. The tariff rate prior to the adoption of the Tariff Schedules of the United States, under paragraph 1006 for gill nettings and other nets for fishing, wholly or in chief value of flax, hemp, ramie, and n.s.p.f., was 45% in 1930 and gradually reduced to 22.5% ad valorem at the time of enactment of the TSUS. (Source: United States Tariff Commission, Summaries of Tariff Information, Vol. X. Flax, Hemp, Jute, and Manufactures, Washington, 1948.)

Note that the above analysis relates to fish netting of vegetable fibers rather than man-made fibers. Therefore, there was a reduction to 22.5% in the duty rate on fish netting from 1930 to 1960 for the most common type of fish netting produced at that time (natural fibers). Since the provisions at that time did not provide for nylon fish netting, this fish netting was dutiable under a general paragraph providing for nylon products. The high tariff was not the result of the items' status as fish netting, but a result of their status as products of nylon. As a consequence, upon the enactment of the TSUS, nylon fish netting maintained a high rate of tariff while fish netting generally was reduced to well below the 22.5% level.

In fact, one case even held that nylon netting should not be charged duty under the then paragraph for nylon products under paragraph 1312 but should, on the basis of the Customs doctrine of similitude, be dutiable under provisions for fish netting of natural fibers. (Robert E. Landweer & Co., and Seattle Marine Co., et al v. United States, 44 Cust. Ct. 384 (1960).)

Thus, we submit that the present high duty rates were not provided to protect the fish netting manufacturers as presently claimed by that industry, but were enacted as an attempt to protect the nylon industry. Therefore, the arguments by the industry that they have specifically been granted tariff protection are unfounded. We have heard no opposition from the nylon industry to reduced tariffs on fish netting of man-made fibers.

In conclusion, the domestic industry has been protected by an artificially high rate of duty for the last fifty-five years, particularly with respect to netting of man-made fibers, and from the early 1960's through the present has been protected by the equivalent of an average tariff rate of 42.5%. The domestic industry has therefore had adequate opportunity to gain a strong foothold in the United States market. Furthermore, the reductions which would be implemented by S. 438 would still leave the United Stated industry in a more favorable position than either Canada (which is duty-free) or the European community.

III. THE UNITED STATES FISHING INDUSTRY SHOULD BE ENCOURAGED RATHER THAN HINDERED BY THE TARIFF LAWS OF THE UNITED STATES

In 1981, there were approximately 193,000 fisherman in the United States as well as several hundred thousand people employed in the processing sector of the U.S. fishing industry. This contrasts with the one thousand (1,000) to fifteen hundred (1,500) people who are employed in the domestic fish netting industry.

As Representative Studds pointed out in May 1982, fishermen, "farmers of the seas," have not been treated as favorably as land based farmers. (Miscellaneous Tariff and

Trade Bills: Hearings Before the Subcommittee On Trade of The Committee On Ways and Means, 97th Cong., 2d Sess. 145 (1982).) With respect to land based farming, Congress has seen fit to include agricultural implements in the list of duty-free items. Thus, the tools used by farmers are freely imported.

Neither is the fishing industry protected from fluctuations in the quantity of supply from year to year or the industry's unparalleled rise in costs. In the past decade, boat prices increased by 400%, fuel costs by 500%, and netting costs have tripled for a typical Pacific Northwest salmon gill net fisherman. Of course, the price of fish has not followed this dramatic increase. While the domestic fishermen must struggle with the high cost of quality supplies, unpredictable seasonable fish supplies, and fluctuating climatic conditions, as well as the competition against imports receiving either preferential GSP treatment or, often, duty-free treatment, there is the ever-present burden of excessive duties simply because they choose to work efficiently and effectively under already very difficult conditions.

IV. NATIONAL PROBLEMS PRESENTED BY THE PLIGHT OF OUR FISHING INDUSTRY

The fishing industry is vital to our national economy and it should be treated as such. Trade statistics indicate that there has been a persistent trade deficit in fish and fish products. For the year 1981, the trade deficit increased from approximately three hundred million dollars to three billion dollars. This trend continues. Thus, to support the United States fish net manufacturers at the expense of the entire fishing industry would unduly encourage and prolong our nation's dependence upon foreign supplies of a commodity which is still a rich natural resource.

V. CONCLUSION

A reduction to 17% is not a drastic remedy in light of the fact that the domestic fish net manufacturers have benefitted for decades from an exceedingly high tariff. There are very few industries in the United States which presently benefit from even a 17% tariff.

In contrast to land based farmers, fishermen do not receive any subsidization, price supports, or preferential treatment, nor do they ask for such. On the contrary, they ask merely that Congress enable them to purchase the tools of their trade at a price which is not artificially high.

All that is being asked with this bill is that the importers and fishermen be allowed to pay duties which have been reasonably assessed. In time, when the domestic net manufacturers have produced a satisfactory, fully tested product which is comparable to the imported product now being used, the fish netting suppliers, importers, and fishermen will consider buying them. But, until such a product is available, it is unconscionable to ask that so many bear such a high burden for so little justification. Surely, when all the equities have been balanced, the scales will clearly weigh in favor of the suppliers, importers, and fishermen and in favor of S. 438.

This tariff rate should alleviate any fears of a sudden surge of imports, however unfounded those fears might be. An intelligent solution to pressing problems such as double-digit unemployment and a continuing balance of trade deficit must rest upon Congress's day-to-day actions on bills such as this. As far as the United States fishing industry is concerned, this small cost-savings, which would be gradually implemented, is desperately needed.

It is respectfully requested that the Subcommittee on International Trade of the Committee on Finance vote affirmatively upon S. 438. Not only would it alleviate the excessive burdens which must be borne by net suppliers, importers, and fishermen, but it would also act as a catalyst to stimulate an oppressed fishing industry to develop and to grow, thereby allowing the duty monies to be applied to the development and strengthening of an overburdened fishing industry with far-reaching favorable effects. This bill would protect not only the domestic fish netting manufacturers but also the fish net suppliers, importers, and users. The former would still have the protection of more than adequate import duties and the latter would not be so severely burdened by unreasonably high tariff rates. Again, for the aforementioned reasons, it is respectfully requested that S. 438 be given your fullest support.

We would be pleased to provide any additional information which might facilitate enactment of this legislation and we thank the Committee for this opportunity to express our views.

STATEMENT OF ROBERT BATEY, SALES MANAGER, BLUE MOUNTAIN INDUSTRIES, BLUE MOUNTAIN, AL; ON BEHALF OF THE AMERICAN CORDAGE & TWINE MANUFACTURERS

Mr. BATEY. Good afternoon.

I am Bob Batey, sales manager of Blue Mountain Industries in Blue Mountain, AL. Blue Mountain is one of the major producers of fishnetting in the United States.

I am appearing here today on behalf of the American Cordage & Twine Manufacturers. Various of ACTM's 15 regular and associate members account for approximately 80 percent of all fishnetting manufactured in the United States. We are strongly opposed to S. 438.

S. 438, if it became law, would immediately reduce the tariff on fishnets and netting of manmade fibers from the present rate of 9 cents per pound, plus 22.8 percent ad valorem, to 17 percent ad valorem. This would equal an immediate 34-percent reduction in the duty on these products. The effect on Blue Mountain and indeed the entire industry would be devastating.

The staged rate reductions now in effect were negotiated in the recent Tokyo round of multilateral trade negotiations. The tariff reduction of fishnets and neeting, like virtually all negotiated tariff reductions, was staged over an 8-year period. The fifth reduction, a 10-percent reduction, became effective on January 1, 1986.

Blue Mountain, like other members of the industry and other prudent businessmen, has relied upon these staged reductions for business forecasting and planning. In the face of a steadily decreasing tariff, we have fought a continuing battle for survival, while making aggressive efforts to meet increasing imports. We have instituted stringent cost-cutting measures, until no further reductions are possible. We have committed ever-scarcer capital resources to the development of new technology and products, with the cooperation of the U.S. fiber manufacturers. New products soon to be available will find a ready market, both in the United States and abroad, provided we are not blind-sided by a unilateral tariff cut this close to our goal.

Manmade fiber fishnets and netting are virtually the only type of commercial fishnetting in use today. These nets may be made of nylon, polyethylene, polypropylene, or polyester. Shortly, new fibers will be avilable; but they are currently trade secrets.

Various members of the industry have invested deeply in bringing these new products to the point where they are almost ready for the market. An immediate slashing of the tariff rate would destroy the ability of U.S. industry to complete this and similar long-range development projects.

Market expansion, technology development and implementation require capital investment. Unless the staged reductions remain, the planning, product development, cost-cutting, and investment to date will be for naught.

Domestic manufacturers relied in good faith that the negotiated tariff reductions, the reductions the United States agreed to on a quid pro quo basis, would remain in effect.

At this point, we would just like to ask that they stay where they are and let us finish the job we started a few years back.

Thank you.

Senator DANFORTH. Thank you, sir.

[The written prepared testimony of Mr. Batey follows:]

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE COMMITTEE ON FINANCE

UNITED STATES SENATE

STATEMENT OF

ROBERT BATEY, SALES MANAGER
BLUE MOUNTAIN INDUSTRIES
BLUE MOUNTAIN, ALABAMA

ON BEHALF OF

THE AMERCIAN CORDAGE AND TWINE MANUFACTURERS

IN OPPOSITION TO S. 438

May 5, 1986

James D. Williams, Jr.
Taft, Stettinius & Hollister
1620 Eye Street, N.W.
Washington, D.C. 20006
(202) 785-1620

Of Counsel

Good afternoon, I am Robert Batey, Sales Manager of Blue Mountain Industries, Blue Mountain, Alabama. Blue Mountain is one of the major producers of fish netting in the United States. I am appearing here today on behalf of the American Cordage and Twine Manufacturers ("ACTM"). Various of ACTM's fifteen regular and associate members account for approximately 80 percent of all fish netting manufactured in the United States. We are strongly opposed to S. 438.

S. 438, if it became law, would immediately reduce the tariff on fish nets and netting of man-made fibers from the present rate of 9¢ per pound plus 22.8% *ad valorem* to 17% *ad valorem*. This would equal an immediate 34% reduction in the duty on these products. The effect on Blue Mountain and indeed the entire industry would be devastating.

The staged rate reductions now in effect were negotiated in the recent "Tokyo Round" of Multilateral Trade Negotiations. The tariff reduction on fish nets and netting, like virtually all negotiated tariff reductions, was staged over an eight-year period. The fifth reduction, a 10 percent reduction, became effective on January 1, 1986.

Blue Mountain, like other members of the industry and other prudent businessmen has relied upon these staged reductions for business forecasting and planning. In the face of a steadily decreasing tariff, we have fought a continuing battle for survival while making strenuous efforts to meet increasing imports. We have instituted stringent cost-cutting measures until no further reductions are possible. We have committed ever-scarcer capital resources to the development of new technology and products with the cooperation of the U.S. fiber manufacturers. New products, soon to be available will find a ready market, both in the U.S. and abroad - provided we are not blind-sided by a unilateral tariff cut this close to our goal.

Man-made fiber fish nets and netting are virtually the only type of commercial fish netting in use today. These nets may be made of nylon, polyethylene, polypropylene or polyester. Shortly new fibers will be available - but they are currently trade secrets. Various members of the industry have invested deeply in bringing these new products to the point where they are almost ready for the market. An immediate slashing of the tariff rate would destroy the ability of U.S. industry to complete this and similar long-range development projects.

Market expansion, technology development and implementation, require capital investment. Unless the staged reductions remain, the planning, product development, cost-cutting and investment to date will be for naught. Domestic manufacturers relied in good faith that the negotiated tariff reductions, the reductions the United States agreed to on a quid pro quo basis would remain in place as stated so this industry could adjust to the import competition. We have worked diligently and industriously in the seven and one-half years since these rates were announced to turn our industry around. Now, when at last the goal is on the horizon, we are threatened with certain defeat - not by imports but by our fellow U.S. citizens and this Congress. This is almost impossible to comprehend.

We understand that American fishermen have problems, but we are not the cause. We do not believe our industry should be sacrificed merely to permit some type of short-term gain for U.S. fishermen when actually their problems are much deeper and broader than this narrow area. This area, minor for them, is critical for us - the survival of our industry.

Unilateral reduction of import tariffs - particularly on textile goods - is contrary to U.S. trade policy, which is to provide tariff reductions through international negotiation and not to make them on a unilateral, non-negotiated basis. In addition to providing the death knell to the U.S. industry, S. 438 contemplates a gift to Japanese and other foreign manufacturers without any compensation that would provide similar increased access to foreign markets for our goods.

As a result of continuous product development on the part of American industry, we can now safely predict that by January 1, 1989, when the current tariff reduction schedule negotiated at Geneva reaches 17% this industry will have on the market fish netting more than twice as strong and more than twice as efficient as that offered by anyone today. Such significant product development must not be sabotaged by fishermen seeking a short term bargain; particularly in view of the fact that it is not at all certain that foreign producers or importers would pass the tariff saving (a very small percentage of the overall net price) along to them in any event.

Senator DANFORTH. Senator Pryor.

Senator PRYOR. I have no questions, Mr. Chairman.

Senator DANFORTH. Senator Mitchell.

Senator MITCHELL. Mr. Batey, what type of netting does your company manufacture?

Mr. BATEY. We manufacture both knotless and knotted netting of nylon, polyester, and cotton.

Senator MITCHELL. What other country manufactures netting that competes directly with your product?

Mr. BATEY. Korea, Japan, several others, and Taiwan.

Senator MITCHELL. And do you sell your product to American fishermen?

Mr. BATEY. Yes, I do, sir.

Senator MITCHELL. And therefore, a healthy domestic fishing industry is an important element in your company's future, is it not?

Mr. BATEY. Yes, it is.

Senator MITCHELL. To the extent that any action we take makes the American fishing industry more competitive and healthier, it would be of ultimate benefit to your company and your industry, would it not?

Mr. BATEY. If we get killed before we get to that point, it won't help us very much.

Senator MITCHELL. Well, that is the way the fishermen feel, Mr. Batey.

Mr. BATEY. I can understand their problem, but I don't see where cutting the tariffs down is going to save or help them to that degree. You know, we're just around the corner from having it there, anyway.

We have got an awful lot of money and time invested in getting the American people back on the right track.

Senator MITCHELL. Well, it is true—is it not?—that there have been tariffs on fishnetting since the Smoot-Hawley Act of the 1930's? We have had 55 years of protection at a very high rate; therefore, the statements about adjustment seem to be difficult to accept.

Mr. BATEY. Basically what we have done is, the plans started becoming effective, put into effect, based on the reduction of the original tariff schedule.

Senator MITCHELL. Do you know how many people are employed in the United States in the domestic fishnetting manufacturing industry?

Mr. BATEY. I am not sure, sir.

Senator MITCHELL. I have information indicating that it ranges from 1,000 to 1,500. Does that sound reasonably accurate to you?

Mr. BATEY. It sounds low to me; but most of the people who are in this produce other items; so they have more employees than just involved in the manufacturing of fishnetting, per se.

Senator MITCHELL. I see. Would you provide us, at your convenience, with your estimate of the number of persons so employed?

Mr. BATEY. Yes, we would be glad to.

Senator MITCHELL. I would just like the record to note that, by contrast, in 1981 there were 193,000 fishermen in the United

States, and an estimated several hundred thousand persons employed in the processing of fish products.

I see my time is up. I thank you, Mr. Batey.

And Mr. Smith, I thank you very much for your statement.

Senator DANFORTH. Let me ask you, Mr. Smith: It is true, isn't it, that there is an antidumping order in effect?

Mr. SMITH. Yes, sir, there is.

Senator DANFORTH. Doesn't that mean that the fishnet industry is being injured by imports?

Mr. SMITH. My knowledge of the impact of the antidumping order is largely centered around the segment of the fishnetting industry known as "salmon-gill fishnetting." Over 50 percent of the manmade fiber net which has been imported into the United States since 1972, approximately, when the antidumping order was instituted, has been salmon-gill fishnetting.

The Japanese have consistently charged substantially higher prices for the salmon-gill fishnetting that they import than the domestic manufacturers have charged, and they have been able to do this because the net that they make is of sufficiently higher quality that the fishermen in this country are willing to pay the higher price for the Japanese net.

The last time that the International Trade Commission, in 1983, conducted an investigation to determine whether or not an industry in the United States would be injured by a revocation of the dumping order as it pertained to salmon-gill fishnetting, the Commission found that there was an industry making salmon-gill fishnetting in the United States which consisted primarily of Nitchimin-U.S.A., a wholly owned or almost wholly owned subsidiary of Nitchimin-Japan.

We have a letter, and in fact I have a copy of it with me, from the U.S. attorney for Nitchimin stating that they are no longer making salmon-gill fishnetting, and they have closed their factory, and they have no intention of resuming the production of salmon-gill fishnetting, and would interpose no objection to a revocation order insofar as it affected salmon-gill fishnetting.

Senator DANFORTH. Thank you all for your testimony.

Next we have a panel on S. 851—Mr. Donald Birnie, who is the marketing manager of the Polyurethane Division of Mobay Corp., and Mr. Ron Fuest, product manager, Uniroyal Chemical Division of Uniroyal.

Mr. Birnie, please proceed.

STATEMENT OF DONALD BIRNIE, MARKETING MANAGER, POLYURETHANE DIVISION, MOBAY CORP., ACCOMPANIED BY PAUL G. GEMEINHARDT, DIRECTOR, COMMUNICATIONS AND ADVOCACY, CHEMICAL INDUSTRY ISSUES, MOBAY CORP., PITTSBURGH, PA

Mr. BIRNIE. Thank you, Mr. Chairman, for the opportunity to speak today.

First I would like to mention that Mobay Corp., whom we represent, has a parent company, Bayer AG of Leverkusen, West Germany, and is a diversified manufacturer of chemical intermediates and polymeric resins, supplying products to a broad spectrum of United States industries.

Mobay currently imports NDI for the production of specialty urethane rubbers from its parent company, Bayer AG, which is one of the only two companies throughout the world that manufactures this chemical. There are no producers of NDI in the United States.

Mobay Corp. urges a favorable vote on S. 851, that proposes a 3-year suspension of duty on imports of 1.5-napthalene diisocyanate, for several reasons:

First, we believe that American industry will not be harmed by suspending the duty on imported NDI, since there are no U.S. producers.

In addition, if we look down the distribution chain, we feel that urethane rubbers based on NDI offer unique performance characteristics—and, I might add, at a 25- to 95-percent premium compared to other materials based on alternate isocyanates, such as MDI and TDI.

These materials based on NDI also are penalized by additional difficulty in the processing of such urethane rubbers.

These materials require an additional very sensitive chemical pre-reaction before the urethane rubber is actually produced, when compared to processing of MDI and TDI products.

For these two reasons—the financial premium that is paid for NDI systems, and also processing difficulty—we believe that these materials based on NDI will not replace the less expensive urethane rubbers currently based on MDI and TDI.

We at Mobay believe that, to the extent that we are currently expanding our own line of pre-polymers based on MDI and TDI.

Additionally, we believe the suspension of duty will make NDI even more attractive for developiog commercial uses that could lead to domestic production of NDI.

A unique character of downstream materials produced from NDI is helping the automotive industry to compete within its own market, against foreign importers. No other rubber products perform in this application, which allows both size and weight reduction in U.S. produced vehicles. Increased fuel economy is another benefit.

The lower cost of NDI resulting from a duty suspension would provide additional incentive for continuing end-use research that could lead to broader areas of use in the consumer products markets, the industrial markets, and the military.

An example of our cooperation with the U.S. military to develop superior materials for tank treads is based on NDI. When implemented, this approach will provide a strategic advantages for our armed forces.

TDI and MDI products have not been found acceptable in this application.

Additionally, urethane rubbers based on NDI can offer improved operating efficiencies to many vital U.S. industries, where other rubbers fail prematurely from wear or dynamic failures.

Thank you.

Senator **Danforth**. Thank you, sir.

Dr. Fuest.

[The written prepared testimony of Mr. Birnie follows:]

WRITTEN STATEMENT
ON BEHALF OF
MOBAY CORPORATION
TO
COMMITTEE ON FINANCE
CONCERNING
SENATE BILL 851

STATEMENT

Mobay Corporation, whose parent is Bayer AG of Leverkusen, Germany, is headquartered in Pittsburgh, PA. Since its formation in the early 1950's, Mobay has become a diversified manufacturer of chemical intermediates and polymeric resins, supplying products to broad areas of U.S. industry having need for polyurethane raw materials and polymers, agricultural chemicals, dyestuffs, pigments, plastics, coating ingredients, and textile fibers.

Mobay currently imports NDI from its parent company, Bayer AG, of West Germany. Bayer is one of only two companies throughout the world that manufacturers the chemical. There are no producers in the United States.

For years, Mobay has offered NDI to the American market through its Polyurethane Division under the tradename MONDUR 15 or DESMODUR 15. Because there were no commercial applications during this period, the economic impact of the high tariff (13.5% ad valorem) has been negligible. NDI was used solely in research and development work.

For sometime, it has been known that NDI can be used as precursor in the formation of high strength synthetic rubbers that also exhibit exceptional resistance to water and heat. Only within the last 2-3 years, however, have such downstream materials, made with NDI, found commercial utilization. In the U.S. automotive industry's quest for smaller, lighter weight and fuel efficient automobiles, interest peaked in the kinds of rubbers made possible with NDI. A need developed for high performance shock absorbing member parts in the suspension systems of newly designed models of front-wheel drive vehicles. That need was satisfied with rubber parts made from NDI. No other natural or synthetic rubber was found to perform as well in this demanding application. In addition to satisfying the high performance requirements of the application, the use of NDI-based rubbers allowed for a significant reduction in the size and weight of the front-end assembly. This contributed to the car's overall smaller size and lower weight resulting in lower cost and more fuel efficient operation for the end-user.

NDI-based rubbers are being used commercially in the front-end suspension systems of many new models of domestically assembled front-wheel drive automobiles. With such models, the domestic auto industry is again becoming competitive within its own market against foreign imports. At a time when worldwide competitive forces continue to push our industries even harder to produce quality products in an efficient and cost effective manner, it seems ill-advised to impose additional burden on manufacturers and the consuming public by taxing products such as NDI.

Because of the growing popularity of these front-wheel drive cars, as manufactured in the U.S., demand for NDI-based rubbers is on the rise and thus, NDI as well. In 1987, Mobay expects to import about 200,000 lbs. of NDI which is one-tenth of the estimated annual consumption foreseen when demand peaks. At the prevailing price and tariff, importing two million pounds of NDI would cost the consumer over two million dollars; a cost the consumer would be spared by the requested suspension of duty. Suspending the duty on NDI would also make the corresponding rubber products more cost attractive for potentially new applications. One of these involves an interest by the U.S. Military. In a continuing search for improved materials on equipment used for our national defense, the Military is evaluating rubbers made from NDI as track treads for the M-1 and M-60 tanks. The testing of NDI based rubber treads is underway at the Yuma, Arizona testing grounds under the supervision of the Motorized Vehicle Command.

NDI is a solid material under ambient conditions and is packaged as a crystalline solid for sales. Its high melting point (127°C/260.6°F) and even higher boiling point (263°C/505°F) makes it particularly safe for handling, transporting and use in downstream processing.

Mobay strongly supports S.851 that proposes a temporary, three years, suspension of duty on NDI, and urges the Committee to pass on the bill. Additional information in support of this position is given in the Appendix, which is attached.

If further communication is needed on this matter, please contact P. G. Gemeinhardt (Tel. No. 412/777-4875) or D. Birnie (Tel. No. 412/777-2635).

APPENDIX

Additional Support For

Mobay's Position on Desmodur 15 Duty Exemption

An exemption of the ad valorem duty on Desmodur 15 for a period of three years will benefit U.S. industry and labor, as well as the American consumer, without creating unfair competition for domestic producers of urethane intermediates.

As a basis for supporting this position, it is important that a few terms be defined. Exhibit A covers definitions of various types of isocyanates, polyols, prepolymers and urethane elastomers. Exhibit B gives a definition of a Vulkollan elastomer based on Desmodur 15.

With these definitions in mind, the support for our position on this duty exemption is as follows:

1. The duty exemption on Desmodur 15 opens the door to a unique elastomer technology for American urethane elastomer processors who are small businessmen.
2. The exemption would eliminate the cost penalty to the U.S. industry of $960 M/year as shown in Exhibit C.
3. It would provide additional jobs for American workers by encouraging production of unique Vulkollan parts in the United States, instead of Europe. Exhibit D outlines a few examples of these applications.
4. Benefits would come to the U.S. chemical industry which would supply polyesters and butanediol to react with the Desmodur 15.
5. This action could lay the groundwork for establishing Desmodur 15 production capacity in the United States in the future.

We believe that no harm would come to American producers of TDI and MDI-based products. Our reasoning here is as follows:

1. Vulkollan capacity is small and supply is short.
2. We at Mobay believe that TDI and MDI-based elastomers will still have a major position in the urethane elastomers market in the United States. As a result, we are in the process of expanding our lines of TDI and MDI-based prepolymers.

3. Since Uniroyal has introduced their TDI and MDI-based products in the European market in recent years, they have increased their market share against Vulkollan in Europe. Again, this is primarily due to the comparative ease of processing of these more conventional materials, along with lower cost.

4. Even without duty, Vulkollan is much more expensive than MDI and TDI-based urethane elastomers. This cost comparison is shown in Exhibit E.

5. The processing of Vulkollan urethane elastomers is much more difficult than the more conventional types. With this unique product, the molder must also carry out a very sensitive chemical reaction to produce a prepolymer which must be used within a period of 20-30 minutes.

6. We believe, because of the increased difficulty of processing and increased cost along with the unique properties of this material, the function of Vulkollan in the U.S. market will be to open application areas where MDI and TDI-based materials do not meet performance requirements.

7. Both the Polyurethane Manufacturers Association and the EPA have gone on record in stating that Vulkollan elastomers are not replacements for TDI/MOCA-cured elastomers.

EXHIBIT 'A'

DEFINITIONS

ISOCYANATES

NDI (DESMODUR 15) - 1,5 NAPHTHALENE DIISOCYANATE

TDI (MONDUR TDS, TD-80) - TOLUENE DIISOCYANATE

MDI (MONDUR M) - 4,4' DIPHENYLMETHANE DIISOCYANATE

POLYOLS

POLYETHER POLYOL - POLYTETRAMETHANE GLYCOL

POLYESTER POLYOL - POLYETHYLENE ADIPATE
POLYBUTYLENE ADIPATE

PREPOLYMER - REACTION PRODUCT OF AN ISOCYANATE AND A POLYOL. (USUALLY NCO TERMINATED)

ELASTOMER - REACTION PRODUCT OF A PREPOLYMER AND A CURATIVE. COMMON CURATIVES ARE: 1,4-BUTANEDIOL
MBOCA
PU-1604

EXHIBIT'B'

VULKOLLAN ELASTOMERS

THESE ARE SPECIALTY ELASTOMERS BASED ON DESMODUR 15, POLYESTER AND 1,4-BUTANEDIOL. ALTHOUGHTHEY ARE DIFFICULT TO PROCESS AND EXPENSIVE, THESE MATERIALS OFFER EXCELLENT ABRASION RESISTANCE AND DYNAMIC PROPERTIES. AS A RESULT, THEY HAVE FOUND USE IN APPLICATIONS WHERE OTHER, MORE CONVENTIONAL MATERIALS (MDI AND TDI BASED ELASTOMERS) DO NOT PERFORM.

MANY OF THESE PARTS BASED ON VULKOLLAN ARE NOW BEING IMPORTED FROM EUROPE.

EXHIBIT 'C'

DUTY EXEMPTION

DESMODUR 15

	DUTY	TOTAL
COST REDUCTION TO AMERICAN CUSTOMER	$1.04/LB	$1.20/LB

- -

MOBAY FORECAST FOR DESMODUR 15 SALES IN 1989	800 M LBS/YEAR
SAVINGS TO AMERICAN INDUSTRY	$960 M/YEAR

EXHIBIT 'D'

EXAMPLES FOR DIFFERENT VULKOLLAN APPLICATIONS

TIRES AND ROLL COVERINGS

- TIRES FOR FORK LIFT TRUCKS
- ELEVATOR GUIDE ROLLS
- CABLE RAILWAY GUIDE ROLLS

SEALINGS

- AXIAL SEALINGS
- CHEVRON RING SLEEVES
- HINGED BAR

WEAR RESISTANT COVERINGS

- MUD AND SAND PUMPS
- WORKING TABLES
- EROSION PROTECTION OF AIR PLANE PROPELLERS & WINGS

SPRING ELEMENTS

SLIDE BEARINGS

COUPLINGS

CONNECTING LINKS

- ANCHOR UNITS
- SUPPORTS
- BUSHES AND HEADS OF DRAG-BARS

EXHIBIT 'E'

ELASTOMER COST COMPARISONS

90 SHORE A

VULKOLLAN (WITHOUT DUTY) (NDI/ESTER/BUTANEDIOL)	$3.32/LB*
ADIPRENE (TDI/ETHER/MBOCA)	$2.67/LB
VIBRATHANE (TDI/ESTER/MBOCA)	$2.50/LB*
VIBRATHANE (MDI/ESTER/BUTANEDIOL)	$1.91/LB*

*COST ADJUSTED FOR DENSITY
ETHER = 1.07 G/CC
ESTER = 1.20 G/CC

STATEMENT OF RON FUEST, PH.D., PRODUCT MANAGER, UNIROYAL CHEMICAL DIVISION, UNIROYAL, INC., MIDDLEBURY, CT

Dr. FUEST. Mr. Chairman, my name is Ron Fuest, and I am technical service manager for the Adiprene/Vibrathane/Urethane elastomer products of Uniroyal, Inc., located in Middlebury, CT.

With me today is Matthew T. McGrath of Barnes, Richardson, and Colburn, counsel to Uniroyal.

Uniroyal opposes the enactment of S. 851, and we believe that duty-free treatment for imports of NDI would have an adverse effect on U.S. producers of prepolymer systems which are based on TDI, toluene diisocyanate, or MDI, diphenylmathylene diisocyanate.

Imported NDI is already competitive with these domestically produced prepolymer systems for certain applications, and, as duty-free imports increase, competition in a broader range of applications is likely to intensify, causing further harm to domestic producers.

NDI is used as a basic chemical component of polyurethane elastomers. It must normally be used in conjunction with a polyol and a chain extender to produce a polyurethane elastomer system, which is then used in producing finished goods.

NDI, as well as prepolymer systems using TDI or MDI, are used in the production of these elastomers, which are then utilized by parts manufacturers in the automotive, engineering, textile, electrical, construction, and a number of other industries.

These imported and domestically produced chemicals are directly competitive. For instance, a rapidly developing market for polyurethane elastomers is in motor vehicle suspension systems, which require high-performance shock absorption characteristics. Imported NDI, and domestically produced TDI and MDI, systems have been successful in qualifying tests for automobile manufacturers.

Another existing market, solid industrial cast tires and wheels, can utilize both the imported and domestic products.

Other emerging elastomer markets will probably be turning to both TDI and MDI systems as well as NDI for their needs over the next several years.

Since many of these markets are only beginning to develop, Uniroyal believes there has been no demonstrated need for duty-free treatment for imports of NDI. We are particularly concerned about the possible irreversible effects of increased duty-free sales of NDI in the United States.

A customer who purchases NDI would produce his own prepolymer and incorporate it into the production stream for his manufacturing operation, rather than purchasing prepolymer systems. Once the investment is made to perform this rather elaborate function, it is unlikely that the customer would revert to purchases of domestically produced TDI and MDI systems, regardless of price competitiveness. The account would be irretrievably lost to NDI imports.

Finally, we believe that NDI has demonstrated an ability to compete in the U.S. market. The suspension of the tariff without equivalent concessions for U.S. exports to the EEC would place U.S. elastomer systems producers at a competitive disadvantage.

Therefore, we ask the subcommittee and the committee not to report favorably on S. 851.

We will be pleased to respond to any questions from the committee.

Senator DANFORTH. I want to thank you both very much.

[Dr. Fuest's written prepared testimony follows:]

Before the
UNITED STATES SENATE
COMMITTEE ON FINANCE
INTERNATIONAL TRADE SUBCOMMITTEE

STATEMENT OF

UNIROYAL CHEMICAL DIVISION
UNIROYAL, INC.

IN OPPOSITION TO S.851

TO SUSPEND THE DUTY ON 1,5 NAPHTHALENE DIISOCYANATE

BARNES, RICHARDSON & COLBURN
475 Park Avenue South
New York, New York 10016

and

1819 H Street, N.W.
Washington, D.C. 20006

Andrew P. Vance
Matthew T. McGrath

April 21, 1986

This statement is submitted on behalf of Uniroyal Chemical Division of Uniroyal, Inc., in response to the invitation for comments of the International Trade Subcommittee, Committee on Finance (Release No. 86-028, April 10, 1986) concerning certain tariff and trade bills.

Uniroyal opposes the enactment of S.851, a bill to suspend for three years the duty on 1,5 naphthalene diisocyanate, (also known as "NDI"), and joins the Administration in opposition to this bill. Uniroyal, a U.S. producer of chemicals and chemical systems, including polyurethane elastomer systems, believes that the implementation of a duty suspension for this chemical would adversely affect U.S. producers of chemicals and chemical systems which compete in the marketplace for sales to producers of the same end products, namely "jounce bumpers" and other plastic parts used in automotive applications. Therefore, the intended duty rate for this article should remain in effect, pursuant to bound tariff concessions under the General Agreement on Tariffs and Trade.

The Product and its Uses

NDI is used as a basic chemical component of polyurethane elastomers. It must normally be used in conjunction with a polyol and a chain extender to produce a polyurethane system, which is then used in producing polyurethane materials. The chemical system can be produced using either N.D.I., toluene diisocyanate (TDI), or diphenylmethylene diisocyanate (MDI) as the diisocyanate component. These systems may be used by a parts manufacturer in a number of applications, including automotive and engineering equipment, textiles, electrical equipment, and the construction industry. The characteristics imparted by these polyurethane systems which are important in their various applications include modulus, elasticity, mechanical load stability, abrasion resistance, and resistance to heat buildup. Among the more recent applications developed for which polyurethane systems terminated with NDI, TDI, or MDI is useful, is so-called "jounce" bumpers or strut-type shock absorbers for vehicles. The deflection characteristics of these urethane systems make them suitable for this recently developed market, and it is expected that jounce bumpers made principally by auto parts manufacturers, will represent a growing market segment for elastomers in the next several years.

NDI, which is the subject of S. 851 and a counterpart House bill, H.R. 1778, is apparently imported only from Germany, and is sold in the United states to polyurethane producers who combine it with polyols and chain extenders to produce chemical systems. Uniroyal markets polyurethane prepolymer systems which use either TDI or MDI as the basic isocyanate, rather than selling the TDI or MDI separately. Other U.S. producers manufacture only these chemicals. Thus, the urethane producer/end-user may either purchase diisocyanate and incorporate it into its own chemical systems, or purchase a system of which the diisocyanate is a terminate. To this extent, NDI separately competes with systems based on TDI or MDI, depending on whether a purchaser chooses to combine the diisocyanate with polyols and chain extenders themselves, or purchase the prepolymer system.

A Duty Suspension on NDI would Adversely Affect U.S. Producers

Uniroyal is a producer of urethane systems, and as such, purchases the TDI or MDI from other chemical manufacturers. Upjohn, Rubicon, Union Carbide, and Olin are all domestic concerns which sell the diisocyanate itself; Uniroyal, American Cyanamid, Conap, and several other concerns market the urethane systems using diisocyanates.

NDI is not currently produced in the United States, and Uniroyal believes the chemical is imported only from Germany. The tariff currently assessed on NDI under TSUS item 405.82 permits U.S. producers of urethane intermediates which serve the same markets to remain competitive. However, the suspension of this duty would affect U.S. prices for NDI, thus marking it more difficult for U.S. produced TDI- and MDI-terminated systems to compete. Uniroyal is not aware of any applications for NDI in urethane elastomers which are not also served by TDI and MDI based systems. NDI is still available to the chemical intermediate producers and end-users who perceive its performance characteristics to be preferable, in some manner, for their individual specifications, and the existence of the present tariff does not make its use prohibitive.

Among the arguments cited in support of this bill is the assertion that NDI is the only acceptable isocyanate for elastomers which can satisfy the high-performance requirements of shock absorbing parts in motor vehicle suspension systems. However, U.S. MDI or TDI-based prepolymer systems producers have already been successful in qualifying these competing systems with automobile manufacturers for their use in producing identical suspension system components.

Testing of these materials by the U.S. military has included both NDI and MDI/TDI systems, and to Uniroyal's knowledge, has identified no definitive need for supplies of NDI to a degree which would require a tariff suspension. A major existing market for these competing chemicals is solid industrial tires, the largest single market for cast materials. Both NDI and TDI/MDI systems are used extensively in the solid tire market.

Suspension of the tariff could undermine the competitive balance which Uniroyal believes to exist in this market, and erode sales of domestically-manufactured TDI and MDI-based systems. As described above, NDI is usually not incorporated into a prepolymer system, due to the extreme instability of the resultant prepolymers. Consequently, NDI would be purchased and used directly by the customer who might also purchase a prepolymer system based on MDI or TDI. However, the customer purchasing NDI would produce his own prepolymer, incorporating it into the production stream for his manufacturing operation. The facilities necessary to produce prepolymers require a significant investment by the customer. As a result, a customer which chooses to purchase NDI and make such an investment is highly unlikely to revert back to the purchase of MDI/TDI prepolymers unless the cost savings are so substantial as to justify the abandonment of the NDI prepolymer reacting facility. Once established in the U.S. market, duty-free imports of NDI can permanently subvert markets for competing, domestically produced prepolymer systems.

Uniroyal does not object to competing with NDI in these markets, and emphasizes that it does not seek any restriction on the importation of NDI or any higher rate of duty. However, the suspension of the tariff, without equivalent concession for U.S. exports to the European Communities, would place U.S. elastomer system producers at a competitive disadvantage which U.S. negotiators intended to prevent when the current tariff structure was agree upon. The possible adverse impact is particularly acute in light of the inherent technical difficulty of retrieving a lost account even after a tariff suspension expires.

For the foregoing reasons, Uniroyal opposes the proposed suspension of duties on imports of 1,5 naphthalene diisocyanate, classified under TSUS item 405.82, and believes that the current, negotiated tariff for this product, which is a part of overall tariff concessions on chemicals resulting from the GATT Tokyo Round should remain in effect.

Respectfully submitted

UNIROYAL CHEMICAL DIVISION
UNIROYAL, INC.

BY: Matthew T. McGrath
BARNES, RICHARDSON & COLBURN
475 Park Avenue South
New York, NY 10016

and

1819 H Street, N.W.
Washington, D.C. 20006

Andrew P. Vance
Matthew T. McGrath

April 21, 1986

Senator **Danforth**. Senator Pryor.

Senator **Pryor**. No questions, Mr. Chairman.

Senator **Danforth**. Is it my understanding that the difference between you is whether or not this foreign import competes with the U.S. product? Is that right?

Dr. **Fuest**. Yes, sir. I think that is right.

Senator **Danforth**. Is there basically a factual difference between you?

Mr. **Birnie**. We believe that NDI systems offer very unique physical properties in the areas of dynamic performance of the urethane rubber, as well as abrasion resistance. They perform in a way far and above those systems based on MDI and TDI.

Senator **Danforth**. Do you believe that factually they are not competitive?

Mr. **Birnie**. We believe that, also, based on the unique properties and also the price premium that is paid for systems based on NDI, that they will not compete.

Senator **Danforth**. Do you disagree with that?

Dr. **Fuest**. I disagree, Senator Danforth. In virtually all known applications where high-performance polyurethane elastomers are and have been used, we have seen MDI or TDI systems used in direct competition with NDI.

Senator **Danforth**. Gentlemen, thank you very much.

Mr. **Gemeinhardt**. Mr. Chairman, may I ask a question?

Senator **Danforth**. Yes, sir.

Mr. **Gemeinhardt**. Mobay is also interested in another bill that is being heard here today. Would you give me a minute to make a brief statement in support of it? My name is Paul Gemeinhardt.

Senator **Danforth**. All right. Reluctantly, I will. What is the bill number?

Mr. **Gemeinhardt**. Senate bill 1651.

Senator **Danforth**. All right.

Mr. **Gemeinhardt**. It requests an extension of a 3-year suspension of duty for a chemical called parahydroxybenzoic acid.

My company, Mobay, is a major importer of this chemical. We believe that the decision 3 years ago to suspend duty on it was a good one, because it gave domestic users of this versatile chemical an opportunity to compete well with foreign imports of end-use products.

We also think, more importantly, that it has contributed to a strong surge in new application development, which has led one of our best customers, Dart Co., to build a 20-million-pound plant using this chemical as a raw material for a new engineering thermoplastic that we feel has great potential in our automotive industry.

About mid-year in 1985, another chemical company in this country announced the production, the domestic production, of this chemical. This chemical company has been one of our major customers, continues to buy this chemical from Mobay still, and Dart Co., one of our other customers, maintains that this comoany has been unable to satisfy either the quality that they need or the quantity that they need for their new application.

I thank you very much for granting me this time.

Senator **Danforth**. All right. Thank you.

Next we have a panel on S. 854: John Rehm, on behalf of the Timex Corp., and Emilio G. Collado, the executive director of the American Watch Association.

Mr. Rehm, would you proceed, please?

STATEMENT OF JOHN B. REHM, PARTNER, BUSBY, REHM & LEONARD, WASHINGTON, DC; ON BEHALF OF THE TIMEX CORP.

Mr. Rehm. Thank you, Mr. Chairman.

I think several points are not in contention:

First, the industry that these requirements were originally designed to protect no longer exists, and that is the U.S. watch assembly industry. There is virtually no watch assembly industry left in the United States.

Second, the requirements do not assist the consumer, because, with one minor exception, all the requirements may be and typically are satisfied by placing the markings inside the watch; therefore, the consumer, to obtain the benefit of the markings, would have to open the watch physically.

In addition, it seems clear, though we can argue about the quantification, that there would be a saving of costs if these special marking requirements were eliminated.

Virtually all watches sold in this country are assembled abroad, and they must meet these requirements. That entails certain manufacturing costs, which are typically passed on to the consumer.

In addition, the U.S. Customs Service itself would obviously be able to save some of its rather precious resources these days and turn to bigger and other matters.

I think the only issue here is—and I'm sure the American Watch Association will speak to it—the issue of counterfeiting.

The American Watch Association would have you believe that these special marking requirements—and I am using words from their own written statement to you—are either a vital or useful tool in combatting counterfeiting. We submit to you that there are three reasons why this argument is invalid:

First, this bill, by eliminating the special marking requirements, would not in any way change or amend the three major statutes that are invoked to combat counterfeiting. They are section 304 of the Tariff Act of 1930, which is the general marking statute in the Tariff Act; section 5 of the Federal Trade Commission Act; and section 34 of the Lanham Act.

Second, Customs headquarters—again, notwithstanding what the AWA's statement would lead you to believe—Customs headquarters, speaking for the entire U.S. Customs Service, supports the bill.

Now, this is an agency that has a major responsibility for combatting counterfeiting. It could not responsibly support this bill if it felt that it would somehow detract from that mission.

And third, I think we have empirical evidence that these special marking requirements play virtually no role, or certainly no significant role, in combatting counterfeiting.

Over 70 percent of imported watches are electronic. By virtue of a court ruling in 1982, the electronic watches were shifted out of schedule 7, and the special marking requirements became inapplicable. In that intervening period, I have no evidence, Timex has no evidence, of any difficulty in pursuing and combatting counterfeiting with respect to electronic watches.

So, for those three reasons, Mr. Chairman, we argue that this is a good bill. It does not harm any domestic industry, it helps the consumer, it helps the U.S. Customs Service, and it does not interfere with counterfeiting efforts.

Thank you.

Senator DANFORTH. Thank you, sir.

Mr. Collado.

[The written prepared testimony of Mr. Rehm follows:]

STATEMENT IN SUPPORT OF S. 854
SUBMITTED BY
TIMEX CORPORATION
WATERBURY, CONNECTICUT 06720
(203) 573-5000

S. 854 would repeal the special marking requirements applicable to watches and clocks in schedule 7 of the Tariff Schedules of the United States (TSUS). This statement summarizes these requirements and sets forth the reasons why the Finance Committee should approve S. 854.

Summary of Special Marking Requirements

Unlike almost all other imports, watches and clocks, and parts thereof, are subject to special marking requirements. Those requirements are set forth in headnote 4 of subpart E of part 2 of schedule 7 of the TSUS. Headnote 4 contains the following requirements:

(a) Watch and clock movements must be marked with:

  (i) country of origin of the movement,

  (ii) name of manufacturer or purchaser of the movement,

  (iii) number of jewels, and

  (iv) number of adjustments (watch movements only).

(b) Watch cases must be marked with:

  (i) country of origin of the case, and

  (ii) name of manufacturer or purchaser of the case.

May 5, 1986

(c) Clock cases must be marked with country of origin.

(d) Watch and clock dials must be marked with country of origin.

These requirements apply to finished watches and clocks, as well as parts thereof. Consistent with headnote 4, all the markings (except the country of origin of the clock case) are made inside the watch and clock, and are not visible to the ultimate consumer.

Discussion

There are six significant reasons why S. 854 should be approved by the Finance Committee.

1. The special marking requirements were designed to protect what is now largely a non-existent industry, except for Timex. The special marking requirements were first enacted in 1909 in paragraph 192 of the Tariff Act of 1909 (36 Stat. (Part 1) 31 (1909-1910)). At that time, foreign made watches and clocks were competing with U.S. made watches and clocks by a variety of unfair trade practices, including the mislabeling of the country of origin, the manufacturer, and the number of jewels. The special marking requirements were designed to give protection from such practices to U.S. companies manufacturing and assembling watches and clocks in the United States. Today, of the major watch makers, only Timex has significant U.S. watch manufacturing operations.

2. The consumer would not be disadvantaged by the repeal of the special marking requirements. As already noted, all the markings (with one exception) required by the special marking requirements are placed inside the watch and clock. Indeed, as a matter of practice, they are never placed on the outside of the watch and clock. A consumer would have to open the watch or clock to see the special markings.

Repeal of the special marking requirements would therefore not disadvantage the consumer, who is not aware of the special markings in any event. Timex believes, as the largest seller of watches in the United States, that consumers have no interest in the information disclosed by the special markings. As noted below, section 304 of the Tariff Act of 1930 will continue to require the country of origin to be marked on the outside of a watch - the only marking Timex believes to be of interest to a consumer.

3. The consumer would continue to be protected by three statutes that ensure the authenticity of the watch or clock he buys. Repeal of the special marking requirements would not affect the anti-counterfeit provisions of the Tariff Act of 1930, the Federal Trade Commission Act, and the Lanham Act.

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), requires that all imported products, including watches and clocks, be legibly and conspicuously marked on the outside with the country of origin. In the case of watches, Customs considers the country of origin of the movement to be the country of origin of the watch. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) has been construed by the FTC to prohibit the sale of watches and clocks without an indication of their country of origin. Section 34 of the Lanham Act (15 U.S.C. 1125) prohibits the importation of watches and clocks that carry a false designation of the country of origin. Together, these three provisions ensure that the consumer is adequately protected from counterfeiting.

4. The special marking requirements impose an unnecessary cost upon the consumer. Virtually all watches and clocks sold in the United States are assembled abroad. All such foreign assembled watches and clocks must therefore comply with the special marking requirements. Such compliance entails an additional manufacturing cost that is passed on to U.S. consumers in the form of a higher selling price. This additional and needless cost would be eliminated by the repeal of the special marking requirements.

5. The special marking requirements impose an unnecessary burden upon the U.S. Customs Service (Customs). The special marking requirements demand that a certain amount of Customs' resources be devoted to ensuring compliance. Yet these requirements are no longer needed, have no purpose, and simply

increase the cost of a watch or clock. Customs' resources are therefore needlessly spent when they might be devoted to a useful purpose.

Customs is already hard-pressed to cope with mounting imports that were valued at about $360 billion in 1985. It is constantly seeking ways to expedite the entry of goods, consistent with the protection of the revenue. The repeal of the special marking requirements would help achieve this goal.

6. The special marking requirements are already inapplicable to about 70% of imported watches and clocks. Until 1982, all watches and clocks were classified in schedule 7 of the TSUS and were therefore subject to the special marking requirements. In United States v. Texas Instruments, Inc., 69 CCPA (Customs) 136, 673 F.2d 1375 (1982), the U.S. Court of Customs and Patent Appeals held that solid state watches and clocks are classifiable under item 688.45 of schedule 6 of the TSUS as electrical articles and parts thereof not specially provided for.

In 1985, about 70% of all watches and clocks imported into the United States were digital. The special marking requirements therefore cover less than a third of all imports. Non-applicability of these requirements to digital watches and clocks has created no apparent problem, further illustrating that no useful purpose would be served by continuing these requirements for other watches and clocks.

Conclusion

For the foregoing reasons, Timex urges approval of S. 854. S. 854 would not harm any domestic industry, but would benefit the consumer and relieve the U.S. Customs Service of an unnecessary burden.

Timex also urges adoption of S. 853, a bill that would repeal the provision that renders watches ineligible under the Generalized System of Preferences (GSP). GSP for watches would reduce Timex' costs and thereby help it to retain the last significant watch component manufacturing in the United States and the domestic jobs associated with such manufacturing.

STATEMENT OF EMILIO G. COLLADO III, EXECUTIVE DIRECTOR, AMERICAN WATCH ASSOCIATION, WASHINGTON, DC; ACCOMPANIED BY EUGENE A. LUDWIG, COVINGTON & BURLING, COUNSEL TO THE AWA

Mr. **Collado**. On behalf of the 40 member companies of the AWA, the American Watch Association, I thank the subcommittee for this opportunity to testify in opposition to S. 854, the bill that would eliminate the country of origin and manufacturer identification markings on imported watch movements, cases, and dials.

As written, S. 854 would remove from watches internal markings that have been helpful over the past 75 years in protecting U.S. intellectual property rights, prosecuting consumer fraud, and enabling U.S. watch companies and law enforcement agencies to identify counterfeit watches and to trace them to their overseas producers.

Examination of the required markings on the movement, case, and dial enables trademark owners to determine their authenticity. If the marking is found to be counterfeit, the trademark owner often can determine the source by pantograph analysis. If the marking is found to be legitimate, where counterfeiters combine legitimate with the inexpensive movements, cases, or dials with counterfeited styling and logos of more expensive brands, this provides valuable information by which to trace the distribution chain.

In this manner, markings assist industry efforts to stop foreign producers of counterfeit watches. Passage of S. 854 would make our job much more difficult and perhaps impossible.

The markings that S. 854 would eliminate also would assist the Customs Service in insuring proper import valuation.

For example, using these markings, Customs is able to identify watches produced in Communist countries; but foreign exporters may attempt to circumvent column-2 tariffs by marking the product on the outside as a column-1 item. Internal markings are helping Customs to deter this kind of fraud; passage of S. 854 would eliminate this useful compliance tool.

We must emphasize that, to our knowledge, only one watch company seeks to eliminate these markings. The rest of the U.S. watch industry has abided by them for three-quarters of a century, and willingly accepts them as they are today.

A proposal was adopted by the House Ways and Means Committee whic preserves much of the essential marking requirements in current law. However, that proposal will, through the use of an alpha-numeric code, not recognizable by retail jewelers, introduce confusion into the U.S. watch industry. With modification, however, the proposal may provide the basis for reasonable legislation.

The American Watch Association would like to work with the members of the subcommittee and their staffs to develop reasonable and responsible legislation that avoids S. 854's elimination of useful and important watch-marking requirements.

Thank you.

Senator **Danforth**. Thank you, sir.

[The written prepared testimony of Mr. Collado follows:]

April 21, 1986

Before the Subcommittee on International Trade
Committee on Finance
United States Senate

Statement of the American Watch Association in Opposition to S. 854

This statement is submitted on behalf of the American Watch Association ("AWA") in opposition to S. 854, which would delete the special marking requirements for watches in Headnote 4, Schedule 7, Part 2, Subpart E of the Tariff Schedules of the United States.

The AWA is a trade association of approximately 40 companies organized and doing business within the United States that are engaged in the importation, assembly and manufacture of watches, watch movements and watch products for sale in the United States and world markets. AWA members include the firms that market such well-known brands as Armitron, Baume & Mercier, Bulova, Cartier, Casio, Citizen, Concord, Corum, Ebel, Hamilton, Helbros, Jaz, Jules Jurgensen, LaSalle, Longines, Lorus, Marcel, Movado, Omega, Piaget, Pulsar, Rado, Rolex, Ronda, Seiko, Swatch, Universal Geneve, Wittnauer and many others.

The special marking requirements of Headnote 4 provide, in relevant part, as follows:

> "4. Special Marking Requirements: Any movement, case, or dial provided for in this subpart, whether imported separately or attached to an article provided for in this subpart, shall not be permitted to be entered unless conspicuously and indelibly marked by cutting, diesinking, engraving, or stamping, as specified below:
>
> (a) Watch movements shall be marked on one or more of the bridges or top plates to show --
>
> (i) the name of the country of manufacture,
> (ii) the name of the manufacturer or purchaser,
> (iii) in words, the number of jewels, if any, serving a mechanical purpose as frictional bearings; and

(iv) in words, the number and classes of adjustments, or, if unadjusted, the word "unadjusted"....

(c) Watch cases shall be marked on the inside or outside of the back cover to show --

(i) the name of the country of manufacture, and

(ii) the name of the manufacturer or purchaser....

(e) Dials shall be marked to show the name of the country of manufacture."

The special marking requirements for watches set forth above were enacted at the turn of the century to inhibit fraudulent commercial practices, including the marking of erroneous countries of origin. Since that time, these requirements have served, and continue to serve, several important functions toward that end: (1) they assist trademark owners and law enforcement authorities in detecting counterfeit watch products and identifying and prosecuting counterfeiters; and (2) they provide the United States Customs Service with a tool to assure compliance with import regulations.

AWA member watch companies comply with the special marking requirements that would be deleted by S. 854. We support their retention because we firmly believe that the costs of marking and compliance are minuscule compared to the benefits provided by enhancing our members' intellectual property rights and protecting their reputations for reliable products of quality in the eyes of the American consumer.

I. Effect on Anti-Counterfeiting Efforts

Counterfeiting is not a new phenomenon for the American watch industry. In fact, the genesis of our trademark law is an act of Congress passed in 1871 to protect United States watch manufacturers from foreign counterfeits. Over the last century, due to the increasing value of the goodwill associated with well known trade names and the lack of effective deterrents to and remedies for counterfeiting, the misappropriation of trademark rights through the counterfeiting of watch products has reached truly epidemic proportions.

In response to this problem in the watch and other industries, Congress passed the Trademark Counterfeiting Act of 1984, which provides criminal penalties and strengthens civil remedies for trademark counterfeiting. The AWA worked diligently for and supported passage of this important legislation. Both members of the AWA and the United States Government have pursued watch counterfeiters under the provisions of this new law. It would be a travesty, following on the heels of this important legislation and given the continuing commitment of the United States to protection of intellectual property rights here and abroad, for Congress to remove a valuable tool used to track down and prosecute watch counterfeiters.

By deleting the Headnote 4 special marking requirements for watches, S. 854 would aggravate the difficulty that United States trademark owners and law enforcement agencies experience in detecting and prosecuting watch counterfeiters. Industry officials have informed us that in a number of instances, United States trademark owners, working closely with trademark owners abroad and law enforcement officials, have been able to use the special internal markings on the movements, cases and dials contained in counterfeit watches imported into the United States to aid in tracking down and prosecuting the sources of these counterfeits. Without the information available from the movement, case and dial, this task would be much more difficult and, in some cases, impossible.

For example, examination of the required markings on the movement, case and dial enables trademark owners to determine initially the authenticity of each of these watch components. If the marking is found to be counterfeit, trademark owners oftentimes are able to determine the source of counterfeit manufacture by graphic analysis of the counterfeit marking and comparison of marking tools used by different companies in different locations. Such determinations have been useful when enforcement authorities initiate a seizure of counterfeits and in seeking to establish the nature of counterfeits in court.

If, on the other hand, the marking in question is found to be legitimate (as is the case where counterfeiters combine legitimate but inexpensive movements, cases or dials with counterfeited styling or logos of more expensive brands), the legitimate special markings provide valuable information in tracing the chain of distribution, including identification of the counterfeiter by finding the company that has supplied the legitimate component to the counterfeiter overseas. The usefulness of the special markings on legitimate components in counterfeit products to trace the counterfeiting source is heightened by the difficulty that counterfeiters have had in attempting to modify or eradicate these markings. Unlike the country-of-origin marking on the back of the case or face of the dial required by Section 304 of the Tariff Act of 1930, the special markings required on various watch components have proven extremely difficult to modify.

Although the internal component markings are not visible to the potential customer of the watch, they are vital to law enforcement officials and United States trademark owners in detecting the foreign sources of the counterfeit watches that are being used to defraud the American public. Customs Service officials on the firing line in Chicago, Miami and New York have indicated they know the value of these markings. However, unless trademark owners and law enforcement officials retain the means to identify those who violate these laws, our recently strengthened laws against counterfeiting and fraud cannot be enforced.

II. Effect on United States Customs Service Enforcement

The United States Customs Service regards watch movements as the "guts" of the complete watch. Accordingly, the country-of-origin marking standard for compliance with Section 304 of the Tariff Act of 1930 is dependent on knowledge of the identity of the country in which the movement is produced (i.e., assembled). Moreover, the information with respect to jewel count (another special marking requirement) can be helpful in enforcing United States duty rates, which are distinguished on the basis of the number of friction-reducing jewel pivots used in the movement.

Customs Service officials have expressed concern that watches that are assembled in one location from parts produced in other countries should conform to a uniform country-of-origin marking standard. In the example of a watch assembled in Hong Kong from a movement assembled in Taiwan, a dial made in Korea and a case made in Japan, the country-of-origin marking to satisfy Section 304 would read "Taiwan" and would be engraved or stamped on the face of the dial or the outer back of the case. Without the special marking requirements of Headnote 4, however, the country of origin of the dial and case would be lost completely, and the country of origin of the movement itself could only be inferred by the Section 304 marking.

Furthermore, Customs Service officials have indicated that some watches may be entering the United States containing Russian movements but assembled in Hong Kong from cases and dials produced in non-Communist countries. Their concern is that these watches may not be marked properly and thereby permit the Russian movements to escape the higher tariffs for Column 2 countries. Thus, deletion of these special marking requirements could trigger import violations by allowing importation of watches with cases and dials made in Column 2 countries, allowing them to escape detection as Column 2 products.

III. Conclusion

S. 854 would eliminate, at best, an inconvenience complained of by only one watch company of which we are aware.

The other members of the industry abide by and support the special marking requirements. The price the United States would pay for their deletion would be the wholesale elimination of a tool that has proven useful in the protection of United States registered trademarks and in curtailing the perpetration of a continuing fraud on the American public. Moreover, the ability of the Customs Service to administer and enforce its import regulations also would be adversely affected. Clearly, the detriments outweigh any conceivable benefits, and this special interest legislative proposal should be rejected.

Senator DANFORTH. Senator Pryor.

Senator PRYOR. Two or three questions, Mr. Chairman, and I will try to make them very brief, for Mr. Collado.

First, when we talk of the U.S. watch industry, Mr. Collado, describe for me today very briefly what the U.S. watch industry is and who composes this industry any longer.

Mr. COLLADO. The U.S. watch industry is a series of U.S. companies that in one way or another take watches produced overseas and import them into the United States, either in finished form or by bringing them in and assembling them in the United States—adding, in the United States, cases, bracelets, packaging, electroplating cases and bracelets in the United States.

It is an international industry. There is no purely U.S. Watch Co.

Senator PRYOR. How many jobs today do we find in the U.S. watch industry?

Mr. COLLADO. We surveyed many of our members and sought to come up with some statistics that define nonsales jobs. There are approximately 5,150 nonsale jobs among the 13 American Watch Association companies that we identified.

Extrapolating from that, based on our industry's best knowledge, there are over 10,000 nonsales jobs, and approximately an equal number of jobs that are related to sales.

Mr. LUDWIG. Mr. Senator, I am counsel to the American Watch Association. My name is Eugene Ludwig, and I am here at Mr. Collado's request.

I might add that American Watch Association associate members, case and strap manufacturers, manufacture watch straps and cases in this country from start to finish.

Mr. COLLADO. While a number of our companies assemble finished products in this country, we should also consider that that is excluding U.S. companies that are producing in the U.S. Virgin Islands, where they assemble product from scratch.

Senator PRYOR. Why do you think the Customs Service supports S. 854, Mr. Collado?

Mr. COLLADO. We have had some discussions with the Customs Service, both in New York and in other ports of entry and in Washington. It seems to me that they seem to be quite supportive of the need for keeping some sort of country-of-origin marking and manufacturing name, and have supported the House version that would retain those country-of-origin markings—a language, I might suggest, that originated from the Timex Corp., Senator.

Senator PRYOR. Isn't Timex the only watch manufacturer in this country that still produces most of its watch components and millions of its watchcases in the United States, within the boundaries of the United States?

Mr. COLLADO. I think that Timex would have to speak to that.

Senator PRYOR. Mr. Rehm, could you answer that for me?

Mr. REHM. Yes, to the very best of my knowledge, and speaking on behalf of Timex, that is certainly the case. Timex has a major manufacturing facility in Little Rock, AK, where it makes, as you say, millions of cases. And to the best of our knowledge, it is the only company that you can cite, anywhere, that has any significant manufacturing capability in this country.

Senator PRYOR. The actual manufacturing of watches?

Mr. REHM. Correct.

Senator PRYOR. And does this marking on the watch that you are seeking to have repealed, does this not put Timex at an economic disadvantage in competition?

Mr. REHM. To a degree it does, yes, because it obviously has to bear these additional costs.

Mr. REHM. I would like to clarify one point, if I may, Senator Pryor.

Senator PRYOR. I think my time is up; but, if you would, take just 30 seconds, because I don't want to make the chairman mad at me, or you—especially you. [Laughter.]

Mr. REHM. That is all I need.

Mr. Collado said that Customs is concerned about maintaining the means to police the country-of-origin of the watch. That is exactly right, if you keep in mind that we are talking about the country-of-origin of the watch—and that is the country-of-origin of the movement of the watch.

Customs has repeatedly told us, and I am testifying here, that it has no problem at all with eliminating these special marking requirements that deal with the internal workings of the watch, not the country-of-origin of the watch as a whole.

Senator PRYOR. I thank both of you for answering my questions.

Mr. COLLADO. I wonder if I could follow up on that last statement?

Senator DANFORTH. Very briefly, please.

Mr. COLLADO. Very briefly, to say that Customs has told us they have no problems with maintaining those marking requirements, and support a compromise based along the lines of the language in the House bill.

Senator DANFORTH. This was compromised in the House bill, was it not?

Mr. COLLADO. It was a compromise, yes, sir. And it was compromised based on some language that Timex initiated, responding to our concerns.

Senator DANFORTH. Do you think you can take care of this problem by compromising it in this bill?

Mr. COLLADO. We have testified and I will emphasize again, sir, that we would like to work with you and your staff on some minor changes to the House language dealing with the type of code referred to. We believe so.

Senator DANFORTH. Do you think it can be compromised, Mr. Rehm?

Mr. REHM. Senator Danforth, thank you for asking the question. It was indeed a compromise, reached between, in large part, Timex and the AWA, but tied to an agreement on another bill before this committee that would render watches eligible for duty-free treatment under the generalized system of preferences.

It was an arrangement dealing with both bills, and we have asked AWA whether they would agree to that agreement on the GSP bill before the Senate. They have told us, "We don't know. We can't tell you yet."

So, as I testify to you here today, dealing only with this bill, we have to stay with the bill as introduced.

Mr. **Collado**. Senator, Mr. Rehm should know that that compromise was not to allow GSP treatment for watches, but to study it, with the presumption that there would be no GSP unless it was found that GSP would not cause material injury. Mr. Rehm should know that.

Mr. **Rehm**. The Ways and Means Committee bill authorizes duty-free treatment under GSP for watches, subject to that condition.

Senator **Danforth**. Next we have a panel on S. 1288: Jerry Pearlman, Zenith; Joseph Donahue, RCA; Richard Kraft, Matsushita Industrial Co.; and Robert Traeger, Toshiba America.

Mr. Pearlman.

STATEMENT OF JERRY K. PEARLMAN, CHAIRMAN AND PRESIDENT, ZENITH ELECTRONICS CORP., GLENVIEW, IL

Mr. **Pearlman**. Thank you, Mr. Chairman.

Mr. Chairman, what is left of our industry needs your help to continue to provide thousands of U.S. jobs in our picture-tube plants and our related TV plants.

S. 1288 would close a loophole in the U.S. tariff schedules that allow Far Eastern manufacturers to circumvent the intent of Congress by paying only a 5-percent duty on picture tubes, which is a full 10 percent below the 15-percent rate intended by the Congress. The 15-percent duty is now being actively circumvented by Japanese television picture tubes and television manufacturers and, if not now, will certainly be used in the near future by Korean and other Far Eastern tube manufacturers.

Circumvented imports of Japanese tubes increased 60 percent in 1985—to more than 1 million tubes, from 600,000 in 1984. Imports under this loophole only began in 1982.

There are two examples of how this duty evasion scheme works. The first example uses complete television receivers and the duty classification thereon.

Picture tubes are shipped from the importing company's plant in Japan to California. They are then trucked in bond to a Mexico components plant. No transformation occurs; in fact, no processing occurs. The manufacturer then officially imports the tube with a like number of television electronics, in separate boxes, and ships them to its U.S. final assembly plant in Illinois.

If this manufacturer had sent the picture tubes directly from California to Illinois, there would have been a 15-percent duty paid, as intended by the Congress. But, because of the Customs ruling, which officials at the Customs told the House subcommittee was done for administrative convenience, the manufacturer imports the tubes through Mexico at a 5-percent duty rate, the same as for unassembled TV receivers.

If this circumvention is not bad enough, a second major scheme is worse: some Japanese companies in 1985 used the Customs classification for "incomplete TV sets" imported directly from Japan in a manner which borders on Customs fraud.

Here is a specific example from the U.S. Customs records:

In September 1985, 27,000 19-inch and larger picture tubes were reported as "incomplete television receivers" at an average f.o.b. price of $64.41. Picture tubes alone, of the same size categories, imported in the same month—September 1985—had an f.o.b. price of $56.12. By adding electronic parts valued at just over $8, or 15 percent more than the tube alone, the Japanese elected to declare these imports as "incomplete TV receivers."

In 1985, Japanese companies imported 359,000 picture tubes classified as incomplete receivers from Japan and other countries. For Customs purposes they were subject to a 5-percent U.S. duty rather than the 15 percent mandated by law for picture tubes.

S. 1288 is designed to close this loophole. If the loophole is not closed, many other television manufacturers will no doubt use the same device to pay 10 percent less Customs duty on imports, and many will switch from domestic-built tubes to imports.

Between 1984 and 1985, actual production of U.S.-manufactured tubes fell by 1.8 million units. Translated into jobs—2 million lost picture tubes which were not produced in the United States represent an output of one fair-sized color picture tube plant, more than 2,000 jobs. The unit loss is roughly equivalent to Zenith's total picture tube production in 1985. It was roughly the capacity of the plant that North American Phillips closed in Seneca Falls, NY.

The impact has been spread among four companies: Zenith, RCA, Phillips, and GE. The pretax profit impact on these four companies we estimate to be about $50 million in 1985.

S. 1288 will restore the 15-percent duty rate Congress intended to apply to color picture tube imports. I urge you to report the bill favorably out of the committee.

Senator Danforth. Thank you, sir. Mr. Donahue.

[The written prepared testimony of Mr. Pearlman follows:]

May 8, 1986

BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

STATEMENT OF
JERRY K. PEARLMAN
CHAIRMAN AND PRESIDENT
CHIEF EXECUTIVE OFFICER
ZENITH ELECTRONICS CORPORATION
1000 MILWAUKEE AVENUE
GLENVIEW, ILLINOIS 60025
(312) 391-8181

IN SUPPORT OF S.1288: TO AMEND THE TARIFF SCHEDULES OF THE UNITED STATES REGARDING THE CLASSIFICATION OF TELEVISION APPARATUS AND PARTS THEREOF.

SUMMARY OF COMMENTS AND RECOMMENDATIONS:

S.1288 would close a loophole in the tariff schedule created by a highly controversial administrative ruling which permits the importation of color television picture tubes at a 5 percent duty rate rather than the 15 percent duty rate intended by Congress.

Zenith Electronics Corporation strongly supports S.1288 and urges that the bill be reported favorably out of this Committee.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

My name is Jerry K. Pearlman. I am chairman, president and chief executive officer of Zenith Electronics Corporation. My full statement in support of S.1288 is on file with this committee. What I'd like to do here is highlight a couple of major points.

Zenith has been a leader and innovator in the consumer electronics business since 1918.

Our industry needs your help. Your support of S.1288 is essential if we are to remain in business and to continue to provide thousands of jobs in our picture tube plant in a suburb of Chicago and in our related TV businesses.

S.1288 would close a loophole in the U.S. Tariff Schedules that allows Far Eastern manufacturers to circumvent the intent of Congress, by paying only a fraction of the required 15 percent import duty on picture tubes imported into the United States.

Using this loophole, companies have been importing color television picture tubes at a 5 percent duty -- a full 10 percent below the 15 percent rate intended by Congress.

The 15 percent duty is now being actively circumvented by Japanese television picture tube and television manufacturers. And, if not now, it will certainly be used in the near future by Korean and other Far Eastern tube manufacturers. Circumvented imports of Japanese tubes increased 60 percent in 1985 to more than 1 million tubes -- from only 600,000 in 1984.

Here are two examples of how this duty evasion scheme works. The first example uses the complete television receiver duty classification, previously noted by Dr. Donahue. Picture tubes are shipped from the importing company's plant in Japan to California. They are then trucked in bond to its Mexico components plant. No transformation occurs. In fact, no processing occurs. The manufacturer then "officially" imports the tubes with a like number of television electronics, in separate boxes, and ships them to its U.S. final assembly plant in Illinois.

If this manufacturer had sent the picture tubes directly from California to Illinois, there would have been a 15 percent duty paid as intended by the Congress. But, because of a Customs ruling -- which officials at Customs told the House Subcommittee was done for "administrative convenience" -- the manufacturer imports the tubes through Mexico at a 5 percent duty rate, the same as for unassembled TV receivers.

If this circumvention is not bad enough, the second major scheme is worse: some Japanese companies in 1985 used the Customs classification for incomplete TV sets imported directly from Japan in a manner which borders on customs fraud.

Here is a specific example taken from U.S. Customs records. In September of 1985, 27,000 19-inch and larger picture tubes were imported as incomplete television receivers at an average FOB price of $64.41. Picture tubes alone imported in September had an average FOB price of $56.12.

By adding electronic parts valued at just over $8 -- or just 15 percent more than a tube alone -- the Japanese elected to declare these imports to be "incomplete TV receivers." In 1985, Japanese companies imported 359,000 picture tubes, classified as incomplete receivers, from Japan and other countries. For Customs purposes, they were subject to a 5 percent U.S. duty rather than the 15 percent mandated by law for picture tubes.

S.1288 is designed to close this loophole. If this loophole is not closed, many other television manufacturers will no doubt use the same device to pay 10 percent less customs duty on imports and many will switch from domestic-built tubes to imports.

Between 1984 and 1985, actual production of U.S.-manufactured picture tubes fell by 1.8 million units. To this number should be added another 500,000 tubes for market growth that U.S. tube manufacturers would have recorded had they held market share while the color television set industry expanded to new record sales levels in 1985.

Translated into jobs, these 2.3 million lost picture tubes which were not produced in the U.S. represent the output of one fair-sized color picture tube plant in the U.S. industry -- more than 2,000 jobs. The unit loss is roughly equivalent to Zenith's picture tube production in 1985. It was roughly the capacity of the North American Philips Seneca Falls, New York, tube plant that was closed last year.

The impact of this lost production of tubes has been spread among four companies: Zenith, RCA, Philips and GE.

Had it all been at Zenith, the impact would have been all 2,200 jobs in our U.S. picture tube plant near Chicago. (The impact in pretax profit to U.S. tube makers was about $50 million.)

S.1288, in restoring the 15 percent duty rate Congress intended to apply to color picture tube imports, represents an important step in the right direction. I urge you to report the bill favorably out of this committee.

Mr. Chairman, I appreciate this opportunity to appear as a witness, and will be happy to try to answer any questions members of the committee might have.

STATEMENT OF JOSEPH DONAHUE, VICE PRESIDENT, CONSUMER ELECTRONICS OPERATIONS, RCA CORP., INDIANAPOLIS, IN

Mr. DONAHUE. Thank you, Mr. Chairman; 20 years ago there were a dozen U.S. color television manufacturers; now, the list has dwindled to three majors. On the other hand, there are approximately 40 different foreign brands participating in the U.S. marketplace. These foreign brands design their product and produce much of the components outside of the United States.

Further, some receive preferential duty treatment under what RCA perceives as a misinterpretation of the U.S. tariff statutes.

We believe the current statutes clearly indicate that the picture tube duty rate as prescribed by Congress was intended to be 15 percent, and not reduced to 5 percent by a cynical and incorrect interpretation of the term "kits."

What we are in fact dealing with is something far different than kits. Since nearly 50 additional components are separately sourced by importers and added to the kits to produce color television chassis in the United States, if you or I, as a hobbyist, purchase a kit and found nearly 50 missing parts, we would both agree the definition of a kit has been stretched too far.

The Department of Commerce data indicates that in 1985 the combined imports of color tubes and color tubes imported with kits reached 2,733,000 units, a 92-percent increase over 1984. In the same year, imported tubes were included in more than 48 percent of all color television receivers sold in the United States.

The dutiable status of color picture tubes is a critical element in the survival of U.S. manufacturers. For the popular 19-inch and the larger 20-inch receivers, the cost of the picture tube ranges from approximately $70 to $80. This means that an importer who takes advantage of this misinterpretation of tariff status, that is a reduction of duty rate from 15 to 5 percent, is accorded a cost benefit of $7 to $8 per color receiver, in a business so competitive that retail prices today are far below the prices of 1967.

A reduced duty is not the only solution to potential availability problems suggested by foreign manufacturers selling TV receivers in the United States. There is nothing to preclude them from establishing color picture tube manufacturing facilities in the United States.

In fact, some time ago the Sony Corp. began manufacturing color picture tubes in San Diego, CA; and Toshiba, in a joint venture with Westinghouse, will begin color tube manufacturing before the end of this year in Horseheads, NY.

Closing a loophole of imported kits will materially aid a depressed color television industry already decimated by years of low-priced labor competition from the Far East. RCA currently employs 5,870 U.S. citizens to manufacture color picture tubes, and estimates that at least 15,000 U.S. employees are directly associated with the U.S. tube and tube component industry.

It is entirely reasonable to believe that the reduced import duties on color picture tubes will be detrimental to these picture tube employees, and will potentially extend to others engaged in the domestic television receiver industry that already must deal with a rising tide of imports from the Far East; 2 years ago RCA evaluated the prospect of continuing to manufacture color picture tubes in the United States for sale to the industry. Following that evaluation, RCA elected to continue manufacture and has committed the expenditure of more than $110 million for new, advanced color picture tube facilities in Marion, IN, and Scranton, PA.

However, continued viability depends upon maintaining an application of the 15-percent duty on all tubes. As suggested earlier, lower costs for imported picture tubes will also influence RCA's recent commitment to heavily automate our Bloomington, IN, receiver plant, as well as the related manufacturing facility in Indianapolis, IN. These plants are viable only if RCA's nearby picture tube plants are also cost effective.

RCA therefore urges that S. 1288 be approved as one important step in restoring a fairer competitive environment for U.S. manufacturers in its own market.

Senator DANFORTH. All right.

Mr. Kraft.

[The written prepared testimony of Mr. Donahue follows:]

May 5, 1986

STATEMENT OF
D. JOSEPH DONAHUE
VICE PRESIDENT, CONSUMER ELECTRONICS OPERATIONS
RCA CONSUMER ELECTRONICS
600 N. SHERMAN DRIVE
INDIANAPOLIS, INDIANA 46201
(317) 267-6617

IN SUPPORT OF S-1288:
TO AMEND THE TARIFF SCHEDULES REGARDING
THE CLASSIFICATION OF TELEVISION
APPARATUS AND PARTS THEREOF

I am pleased to express RCA Corporation's strong support in favor of passage of Senator Danforth's bill, S-1288.

As a pioneer American manufacturer of television receivers, television picture tubes, and other electronic products, RCA has helped develop the color television business which began in 1954. Today, however, RCA is one of the few remaining U.S. manufacturers in the consumer electronics industry.

Twenty years ago there were dozens of U.S. manufacturers. Now the list has dwindled to three majors, Zenith, General Electric and RCA. On the other hand, there are approximately 40 different foreign brands participating in the U.S. marketplace. These foreign brands design their products and produce much of the components outside the United States. Further, some receive preferential duty treatment under what RCA perceives as a misinterpretation of the U.S. tariff statutes.

Our concern is that a domestic television industry, already sharply reduced in employment levels, will shrink even further or disappear altogether unless laws already mandated by Congress are not observed fairly by all participants.

Any significant change in the existing duty rate would, in our opinion, lead to the serious consideration of abandoning television picture tube and receiver manufacturing in the United States by the few remaining U. S. firms. The picture tube, as the most costly element in a TV receiver, has a direct effect on the economics of TV receiver manufacturing.

S-1288 would clearly help remedy this situation. It was never intended in 1977 and 1980, when Orderly Marketing Agreements were first entered into with Japan, and later with Taiwan and South Korea, to change the dutiable status of color television picture tubes that are not part of complete television receivers.

We believe the tariff statutes clearly indicate the picture tube duty rate, as prescribed by Congress, was intended to be 15% and not reduced to 5% by a cynical and incorrect interpretation of the term "kits".

It is clear to RCA that the tariff statute language, which provides the so-called basis for classification of "kits" at 5%, was never intended for that purpose. We believe it was introduced into the tariff statutes for the sole purpose of enabling Customs to monitor quotas under the Orderly Marketing Agreements.

However, when these OMAs came to an end in mid-1982, the "monitoring" language did not likewise disappear, and that is a problem the passage of S-1288 will remedy.

The issue of the dutiable status of color television picture tubes is by no means a new one. The extremely grave nature of the U.S. color picture tube industry was recognized some years ago during the Tokyo Round negotiations, and again by the Foreign Trade Zones Board when it had before it essentially that question involving the dutiable status of color television picture tubes proposed to be used in Sanyo's foreign trade zone in Forrest City, Arkansas. That matter concluded with the retention of the 15% duty on imported color picture tubes.

Earlier, I referred to a misinterpretation of the term "kits." It is appropriate at this point to note for the record that "kits" is a misnomer. What we are in fact dealing with is something far different than "kits" since nearly 50 additional components are separately sourced by importers and added to the "kits" to produce color TV receiver chassis in the United States.

If you or I as a hobbyist purchased a "kit" and found nearly 50 parts missing, we would both agree the definition of a "kit" had been stretched too far.

As a result, the number of color television kits flowing into the U.S. from outside the country has been climbing each month, helped along by a lower, unfair duty rate on the principal component, the picture tube.

Department of Commerce data indicate that in 1985, the combined imports of color tubes and color tube imported with kits reached 2,733,000 units, a 92% increase over 1984. In the same year, imported tubes were included in more than 48% of all television receivers sold in the U.S.

The dutiable status of color picture tubes is a crucial element in the survival of U.S. manufacturers since it is the single most costly component in the manufacture of color television receivers. It represents some 50% of the material value of a TV set. For the popular 19" and the larger 20" color receiver, the cost of the picture tube ranges from approximately $70 to $80. This means that an importer who takes advantage of this misinterpretation of the tariff statutes (i.e., reduction of duty rate from 15% to 5%) is accorded a cost benefit of $7 to $8 per color receiver in a business so competitive that retail prices today are below the prices of 1967.

RCA Consumer Electronics is fully prepared to continue participating in the intensely competitive consumer electronics market, and we are constantly taking steps to do so by use of advanced engineering and manufacturing technology. However, we sincerely believe the existing interpretation of "kits" is incorrect and unfair, and we therefore urge that S-1288 be passed by the Senate.

A reduced duty is not the only solution to potential availability problems suggested by foreign manufacturers selling TV receivers in the United States. There is nothing to preclude them from establishing picture tube manufacturing facilities in the U.S. In fact, some time ago Sony Corporation began manufacturing color picture tubes in San Diego, California, and Toshiba (in a joint venture with Westinghouse) will begin color tube manufacturing before the end of 1986 in Horseheads, N.Y.

Closing the loophole of imported kits will materially aid a price-depressed color television industry, already decimated by years of low priced labor competition from the Far East.

Further, the matter is pertinent relative to the adverse impact on U.S. employment in this industry. RCA Consumer Electronics, for example, has seen employment levels decrease by 50% over the past five years, principally in Indiana.

I would not presume to suggest to you that the customs classification of "kits" is the sole cause for this decline, because it is not. I would suggest to you though that as a contributing factor it will ultimately affect our total color television business -- receivers and picture tubes -- primarily in Pennsylvania, Ohio and Indiana.

RCA currently employs 5,870 U.S. citizens to manufacture color picture tubes and estimates that at least 15,000 U.S. employees are directly associated with the U.S. tube and tube component industry.

It is completely reasonable to believe that reduced import duties on color picture tubes will be detrimental to these picture tube employees and potentially extend to others engaged in a domestic color television receiver industry that already must deal with a rising tide of imports from the Far East. That tide can be seen in the 15% increase in chassis and kits from Japan at the beginning of 1986.

Two years ago RCA evaluated the prospect of continuing to manufacture color picture tubes in the U.S. Following that evaluation, RCA elected to continue manufacturing and committed the expenditure of more than $110 million for new advanced color picture tube facilities in Marion, Indiana and Scranton, Pennsylvania. These facilities have been deployed to provide the industry with new tube formats in various screen sizes. However, continued viability depends upon maintaining an application of the 15% duty on all imported tubes.

As stated earlier, lower costs for imported picture tubes would also influence RCA's recent commitment to heavily automate our Bloomington, Indiana TV receiver plant as well as a related manufacturing facility in Indianapolis, Indiana. These plants are viable only if RCA's nearby picture tube plants are also cost competitive.

RCA therefore urges that S-1288 be approved as one important step in restoring a fairer competitive environment for U.S. manufacturers in their own home market. It is a good bill.

I appreciate the opportunity to express RCA's views in support of passage of S-1288.

Thank you.

Respectfully submitted,

D Joseph Do

D. Joseph Donahue
Vice President
RCA Corporation

STATEMENT OF RICHARD KRAFT, PRESIDENT, MATSUSHITA INDUSTRIAL CO., FRANKLIN PARK, IL

Mr. **Kraft**. Mr. Chairman and members of the committee, I want to make three very brief points this afternoon in opposition to S. 1288.

First, this bill would reverse a series of carefully considered Customs rulings including one obtained by my company. These rulings provide that color television assemblies, the combination of components which make up the essence of the television set, are accorded the same duty treatment as completed television. We sought a ruling with respect to our imports before we began those imports and have relied on that ruling in all of our planning since and until this bill came along. As an American businessman, I think it is fundamentally unfair for Congress to step in and overturn a regulatory action such as this Customs ruling, unless there is a very strong reason to do so.

Senator **Danforth**. Why? This is your time and I should not be interrupting you, but I don't understand why we should defer to an agency ruling. We can amend our own statutes. Why can't we review administrative rulings?

Mr. **Kraft**. Well, you can certainly review them, but I think that the business people have to operate in a climate of reasonable stability; and changes of this magnitude and especially in the short time that you are talking about it are very difficult to be accommodated in the business planning.

Senator **Danforth**. All right. You are against the tax bill? [Laughter.]

Mr. **Kraft**. As a matter of fact, I support the tax activity that is going on, very highly.

Senator **Danforth**. Thank you. All right. I am sorry. I will give you some more time.

Mr. **Kraft**. God bless you. The second point: Contrary to the basic reasoning advanced by the proponents of this bill, the enactment of this legislation will not increase the sales of American-made color picture tubes. The logic of the duty situation will, instead, encourage the importation of complete receivers, rather than the components and assemblies which are now being imported.

The adverse effect, therefore, will be on factories like ours in Franklin Park, IL, with the jobs placed at risk being those of our employees and the losses suffered being those of our U.S. suppliers who sell us over $70 million in parts and components annually. In Franklin Park, IL, we now produce 55 percent of the Panasonic color televisions marketed in the United States, and over 80 percent of those sold under the Quasar label. If this bill passes, we simply will not be able to continue at those levels. Rather, final assembly of some portion of those sets will take place outside of the United States.

The third point: This resulting relocation of assembly will be a severe blow to my company's sincere and very substantial effort to develop a world class, profitable production facility in Franklin Park. In 1979 and 1981, we absorbed a cumulative 30-percent increase in the price of our domestic picture tubes. And yet, during that same period, the price for color television sets sold in the market showed no price increase at all, including the sets made by the same companies as were supplying our increasingly higher priced picture tubes. At that point, our company could have closed its U.S. color facility, but we did not.

Instead, we sought ways to reduce our costs. We invested significant sums in new production lines, new product designs, increased worker training, and other ways to control and hold the line on costs. Picture tube costs were one key to this effort; and the Customs ruling which we obtained, which is the issue in this legislation, was a vital part of our program.

Without that ruling, the economics probably would not have justified our other investments. Thank you.

Senator **Danforth**. Thank you, sir. Mr. Traeger.

[The prepared written testimony of Mr. Kraft follows:]

COMMENTS OF MATSUSHITA INDUSTRIAL COMPANY IN OPPOSITION TO S. 1288

SUBMITTED TO THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
UNITED STATES SENATE

April 21, 1986

SUMMARY

Matsushita Industrial Company ("MIC") submits these comments to the Subcommittee on International Trade, Committee on Finance of the United States Senate, in opposition to S. 1288. Should the Committee decide to hold hearings on this bill, MIC hereby requests permission to testify. In the event that this request is granted, Mr. Richard Kraft, President, will testify on behalf of MIC.

MIC is a U.S. manufacturing division of Matsushita Electric Corporation of America, which is the principal U.S. subsidiary of Matsushita Electric Industrial Company of Osaka, Japan. At its facility in Franklin Park, Illinois, MIC produces a majority of the Panasonic and Quasar color television sets sold in the United States and employs over 1,300 U.S. workers in production and related jobs.

The bill would immediately reclassify and increase the duty on color television picture tubes which are imported as part of assemblies (including other parts, such as chassis and control panels) but which are not, at the time of importation, incorporated into a finished television receiver or included in a kit containing all of the parts necessary for assembly into a finished receiver. This change would reverse longstanding Customs practice and, specifically, a 1984 administrative decision that television assemblies having a picture tube are dutiable at 5% ad valorem. The bill would force a division of the importations of assemblies having a picture tube, so that the "picture tube" portion would be dutiable at 15% ad valorem.

There are four major reasons why S. 1288 should not be enacted:

1. Perhaps most importantly, it would have the perverse effect of harming American companies and their employees, due to the substantial cost increase that MIC and other U.S. companies would experience for their picture tube purchases. Because of the magnitude and immediacy of these cost increases, passage of the bill would lead to the loss of a substantial number of U.S. jobs and a shift in employment to production offshore, as well as to a decrease in purchases of domestically produced picture tubes and other components.

2. By changing the rules relied on by MIC and others in structuring their U.S. operations, enactment of S. 1288 would strongly discourage future investment by foreign companies in production facilities in the United States.

3. Enactment of S. 1288 would cause the United States to be in violation of its obligations under the General Agreement on Tariffs and Trade ("GATT") to refrain from duty increases on "bound" tariffs.

4. The bill's passage would ignore well-established principles of tariff classification and would disrupt the statutory judicial review of the 1984 Customs decision.

BACKGROUND

A. The Domestic Industry

The domestic color television receiver market is intensely competitive, with over 25 different companies supplying the market with over 30 brand labels. Of these, more than 15 companies--and all of the major brands--sell color televisions which are produced in the United States. Virtually all domestic producers manufacture in the same way that MIC makes its Panasonic and Quasar receivers--by sourcing various components and assemblies outside of the United States for final assembly here.[1] Indeed, MIC was one of the last domestic producers to establish a component facility in a "lower wage" country.

There are only four domestic producers of color picture tubes: RCA Corporation ("RCA"), Zenith Electronics Corporation ("Zenith") (Rauland Division), North American Philips Corporation ("Philips") (Magnavox, Sylvania, Philco), and the General Electric Company ("GE").[2] Domestically produced picture tubes numbered nearly 11.5 million[3] in 1984 and accounted for approximately 88.8% of the total color picture tubes supplied for color television assembly in the United States.[4] As these figures demonstrate, the domestic picture tube producers are operating at a high capacity utilization rate and enjoy a very strong position in the market for their products. While 1985 figures, which are still incomplete, will show increased picture tube imports, the vast bulk of that increase came in the 13-inch screen size, following U.S. producers' decisions to reduce or eliminate their production of this size of picture tube.

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[1] For example, Zenith Electronics Corporation has moved "most component manufacturing operations to Mexico." Facing Up to Hard Times at Zenith, Fortune, June 25, 1985 at 67.

Further, it is important to note that the four U.S. picture tube producers have for years captured a total of over 50% of the 1984 U.S. market for completed television receivers. The numerous other U.S. finished color television

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2. The effect of the proposed acquisition of RCA by GE on the status of both producers is, as yet, unclear.

3. This figure represented approximately 80% of total estimated U.S. production capacity of 14 million tubes. This compares quite favorably to the average capacity utilization for all U.S. manufacturing industries of 67%. (Source: U.S. Department of Commerce, Bureau of the Census.)

4. These figures are based on estimates by MIC of domestic production and on 1984 U.S. Department of Commerce import statistics for picture tubes (item 687.35) and color television receiver assemblies (item 684.92, formerly item 685.14).

producers, including MIC, must obtain picture tubes either by purchasing them from one or more of their four leading competitors in the finished receiver market or by importing at least some of them. For this and other reasons, all of the U.S. receiver producers, including three of the four picture tube producers, rely, to a greater or lesser extent, on imported picture tubes.

B. MIC

MIC's television plant, located in Franklin Park, Illinois, produces approximately 55% of the Panasonic and 82% of the Quasar color television sets sold in this country. The Franklin Park facility currently employs some 900 people in television set production and 400 in support positions.

Most of the color televisions produced at MIC utilize imported television chassis and control panels which are assembled in Mexico, at a facility operated by a related company, Matsushita Industrial de Baja California ("MIBA"). The chassis and control panels are assembled from many individual foreign and U.S. components, such as integrated circuits and resistors. For many color models, MIBA ships the assembled chassis and control panels to MIC together with corresponding color television picture tubes manufactured in Japan. These components are imported and entered together, although packaged separately to avoid breakage in transit, on the same vehicle and in equal numbers.[5] MIC at Franklin Park then undertakes final production, testing, and adjustment, using U.S.-produced cabinets with other U.S. and foreign components.

MIC began its U.S. production in Franklin Park (under its former name) in 1974, and its operations and productivity grew steadily for several years.[6] From 1979 to 1981, however, the price of domestic color picture tubes to MIC rose by a total of more than 30%. During that same period, retail prices for finished color television sets--including those for the domestic companies supplying color picture tubes--were stable or declining, threatening to

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5. In 1984, MIC imported over 500,000 picture tubes, with corresponding control panels and chassis, through its MIBA facility. In addition to MIC's imports from Mexico, tube-inclusive color assemblies and kits are also being imported by other domestic television manufacturers from Malaysia, Korea, Japan, and Singapore. See Television Digest, May 27, 1985, at 16, col. 2; U.S. Department of Commerce import statistics.

6. Matsushita Electric Industrial Company, Ltd., MIC's Japanese parent, purchased the consumer electronics division of an established corporation in 1974 and established the new joint sales and manufacturing company as Quasar Electronics Corporation. In 1979, this corporation was divided into Quasar Company, a sales operation, and MIC, which is engaged solely in the manufacture of consumer electronic goods.

render MIC's production of color televisions in the U.S. totally unprofitable. Consequently, MIC began the search for feasible alternatives to resolve this crisis.

One alternative, obviously, would have been to decrease production costs by transferring production offshore. Instead, however, MIC decided to make substantial investments by replacing existing production lines with "second generation" advanced production lines, known as "Super Lines," which made major improvements in capacity, quality and productivity. Second, it began to diversify its sources of supply, relying more on imported picture tubes than in previous years.[7] Specifically, MIC requested and received a binding tariff ruling from the Customs Service in 1981 that picture tubes imported with control panels and chassis would be classified as television assemblies having a picture tube at a duty rate of 5%. The favorable Customs ruling was, thus, a major factor in allowing MIC to retain its U.S. production facility in Franklin Park. Only after this ruling was obtained did MIC begin actual imports in this manner.

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[7] MIC continues to purchase approximately half of its picture tubes from the four domestic producers. There are three primary reasons for continuing these large purchases. First, the continuation of significant business relationships guards against any disruptions in supply from imported sources (due to dock strikes, for example) and sudden changes in currency values. Second, the physical proximity of the U.S. producers allows more flexibility in supply flow. Third, it is a policy of MIC, as a U.S. producer, to purchase substantial quantities of U.S. components whenever possible.

Since its initial ruling, the Customs Service has reiterated its determination in two additional letter rulings and a formal administrative decision, properly classifying MIC's chassis/control panel-picture tube importations within 1985 Tariff Schedules of the United States (TSUS) item number 684.96 (formerly item number 685.14, TSUS), which covers "television assemblies having a picture tube" and bears a duty of 5% ad valorem.

In its final statement, the Customs Service, in an exhaustive decision issued in November 1984, denied a petition filed by domestic labor unions representing picture tube workers in December 1983, ruling that the classification was correct on two separate grounds: first, because the tariff provision for "assemblies having a picture tube" specifically described the importations; and, second, because the importation of equal numbers of picture tubes, control panels, and chassis perform the basic functions of a television receiver. This decision upheld longstanding Customs practice dating back to 1971, when Customs originally issued a ruling to another firm that importations of television chassis together with picture tubes were properly classified as television apparatus, and consistent Customs rulings thereafter.[8]

The unions have challenged the 1984 Customs Service decision in the U.S. Court of International Trade. The pendency of this court action suggests that, at best, S. 1288 is premature. Congress should not cut its statutorily prescribed review procedure short by changing the tariff provisions involved, thereby eliminating the chance for the CIT and CAFC to decide whether the decision by Customs was legally correct.

C. The Terms of the Bill

S. 1288 would immediately triple the duty rates applicable to importations, from all countries, of picture tubes with television chassis and control panels, from the current 5% to 15%. Technically, this would be accomplished by reclassifying picture tubes imported simultaneously and in equal numbers with chassis and control panels to item 687.35, TSUS, which provides for "Television picture tubes: Other" and carries a duty rate of 15% *ad valorem*. Under S. 1288, color picture tubes would remain subject to a 5% duty rate if imported as part of either a completed television set or an unassembled kit containing all parts necessary for assembly into a complete television receiver.

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[8] *See* Customs Letter Rulings: MFG 431.51 MA, 00 9050 (February 3, 1971); MFG 431.51 WR, 018022 (June 15, 1972); CLA-2:R:CV:S L, 431.51, 029088 (July 30, 1973); CLA-2:R:CV:MSP, 053119, SC (September 7, 1973); CLA-2:R:CV:MS8, 051204 SC (August 1, 1977).

DISCUSSION

The enactment of S. 1288 would cause unintended, but nevertheless serious, economic consequences to MIC and other U.S. companies, which have relied upon the Customs decisions in maintaining their U.S. operations, and to their current U.S. employees. Beyond this immediate adverse practical effect, there are also serious legal and policy problems with S. 1288.

A. Adverse Economic Effects of Enactment of S. 1288

The most immediate effect of passage of this legislation would be to put severe competitive strain on MIC and other companies which have relied on Customs' rulings and longstanding practice in the business planning for their U.S. manufacturing operations. As discussed above, competition within the television receiver industry is intense, with both domestic producers, such as MIC in Franklin Park, Illinois, and producers from other countries (e.g., Taiwan, Korea, Hong Kong, Japan) competing for position in a mature market. The retail price of a finished television set is an extremely important criterion in consumers' decisions regarding which set they will buy.

The picture tube is the single most expensive component of a television, amounting to approximately one-third of the total price of all components. The increased duty on each importation of television assemblies--about $6.60[9]--would translate into even higher sales prices along the distribution channel, making MIC-produced sets significantly less attractive to consumers and causing injury to the American distributors and dealers of Panasonic and Quasar television sets produced by MIC, as well as to MIC itself. This is especially true with regard to so-called "leader models," which are the basic sets, without many of the extra features which raise the cost to the consumer. These sets account for 30-40 percent of sales of televisions, and price is an essential part of the competitive situation for these sets.

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9. Derived from figures in Television Digest, March 25, 1985, at 17, col. 2.

Consequently, in light of the introduction of S. 1288, as well as other competitive factors, MIC is currently being forced to examine very carefully its options for maintaining its competitive position. The enactment of S. 1288 would be a major consideration in this process.

1. Loss of American Jobs Occasioned by a Transfer of Production Facilities

Despite its strong desire to maintain its U.S. production, MIC's management's current thinking is that the most compelling option for MIC, in the event of the passage of S. 1288, would be to transfer final assembly operations to the MIBA facility in Mexico and import complete television sets at the 5% duty rate existing under current tariff provisions, as well as under S. 1288. It is indeed ironic that, by abruptly increasing the duty on tubes which are not incorporated into complete receivers, S. 1288 actually creates an incentive for domestic producers currently importing some picture tubes with assemblies to move production offshore and import completed television receivers at 5% duty rate.

2. Decrease in MIC's Purchases of Domestic Color Picture Tubes and Other Components

Whether or not MIC moves all or part of its operations to Mexico, it is a virtual certainty that passage of S. 1288 would not result in the purchase by MIC of more U.S.-produced picture tubes--which is clearly one of the major purposes of the bill. In fact, the bill's enactment would more likely result in decreased purchases by MIC of domestic tubes.

MIC currently purchases about half of its picture tubes domestically, even though it has experienced a production line problem, or "defect rate," for U.S. tubes which has consistently been 2 to 8 times higher than that for comparable Japanese tubes, as the graph attached as Appendix A illustrates.[10] Obviously, higher defect rates increase the cost of production, which is a matter of considerable concern in the highly competitive market for television sets. Passage of S. 1288 and the resulting shift of production to Mexico would almost certainly cause a decrease in purchases of domestically produced picture tubes. The U.S. producers' advantage in terms of physical proximity would be reduced, and MIC's incentive to "buy American" would be significantly lessened, as well.

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[10] This graph serves to contrast defect rates for domestic tubes from three U.S. producers with tubes imported from MIC's parent company in Japan, which have a consistently lower defect rate. The graph also shows a general reduction in the defect rate problem over the past few years. This is due, in large part, to MIC's efforts in working with each domestic producer on ways of correcting the problems experienced on the production line.

Further, the detrimental impact of a shift in MIC's operations would also be felt in reduced purchases of other parts and components which MIC currently sources domestically, such as wood and plastic molded cabinets, packaging materials, metal brackets, bezels, insulators, staples, ink, solder, foam tape, overlays, trim parts, knobs, and line cords. These parts are traditionally sourced (by all receiver manufacturers) in close proximity to the facility where the receiver is finally assembled.

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In short, if the purpose behind S. 1288 is to preserve and even create American jobs and to stimulate the purchase of American picture tubes, passage of the bill will fail to achieve either goal. Indeed, its enactment will bring about the opposite result.

B. Legal and Policy Problems with S. 1288

Beyond the adverse practical effects of enactment of S. 1288, there are three broader policy and legal reasons for not enacting this bill. Specifically, the bill would: (1) dissuade foreign companies from considering investments in U.S. manufacturing operations; (2) violate the U.S. "binding" if its tariff on television receiver assemblies under the GATT, potentially requiring the United States to compensate our injured trading partners or suffer retaliation by those countries; and (3) create an anomaly in the law, since current law and practice is precisely in line with the general structure of the Tariff Schedules and Customs' implementation of them.

1. Disincentive to Future Foreign Investment in U.S.

The Administration and members of Congress have encouraged foreign direct investment in U.S. manufacturing operations, and MIC and its U.S. parent company have wholeheartedly--and publicly--supported these efforts. Legislation such as S. 1288, however, can only serve to discourage foreign companies from locating within the United States in direct contradiction of these Congressional policy statements. The message sent by enactment of such legislation would unfortunately be that, despite substantial investments made in the United States and despite reliance by the companies upon the tariff structure and Customs rulings and even Congressional policy statements, the law and rules can at any time be changed dramatically in mid-stream causing substantial injury to the U.S.-located manufacturer which imports some of its components, subassemblies, or assemblies.

Again, the bill's enactment would, perversely, serve to discourage the creation of more American jobs.

2. Enactment of S. 1288 Would Increase a Bound Duty in Contravention of U.S. Obligations Under the GATT

In addition to its adverse economic effect, enactment of S. 1288 would cause the United States to violate its international obligations under Article II(1)(a) of the General Agreement on Tariffs and Trade ("GATT"), which provides:

> Each contracting party shall accord to the commerce of the other contracting parties treatment no less favourable than that provided for in the appropriate Part of the appropriate schedule annexed to this Agreement.

This provision prohibits a GATT signatory from increasing tariffs, either directly or through changes in classification, beyond the duty rate to which it has bound itself either in the schedule annexed to the original GATT or by negotiation at a subsequent trade round and incorporation of the new rate into the resulting GATT Protocol. Moreover, Article XXVIII sets forth procedures which a GATT party must follow to withdraw or modify a trade concession by, for example, enacting legislation (such as S. 1288) amending its tariff schedule, and provides for compensation to parties affected by such withdrawals or modifications.

In the 1967 Geneva Protocol to the GATT, completed at the conclusion of the Kennedy Round of Multilateral Trade Negotiations, the United States bound itself to assess a maximum duty of 5% *ad valorem* on television receivers, then classified under a predecessor category, item 685.20, TSUS. Item 685.20, TSUS, has long and consistently been construed by the Customs Service to embrace television assemblies imported together with a picture tube.[11] Continuation of the 5% ceiling was reaffirmed in the 1979 Multilateral Trade Negotiations at Tokyo and the ensuing 1979 Geneva Protocol to the GATT.[12]

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11. See discussion at pp. 7-9, *supra*.

12. A trade concession granted by the United States on a particular subset of articles classified under item 685.20, TSUS, i.e., monochrome television receiver assemblies having a picture tube, led the President to issue a proclamation dividing former item 685.20 into several new items, 685.11 through 685.14. Proclamation No. 4707, 44 Fed. Reg. 72,348, 72,400, 72,401 (1979), *reprinted in* Special Pamphlet to accompany 19 U.S.C. §§ 1-1300. This redesignation of an existing class of articles did, however, retain the original Kennedy Round concession of 5% *ad valorem* on color television receiver assemblies having a picture tube in the new item 685.14, created by the Presidential Proclamation. *Id*.

The reclassification, contemplated by S. 1288, of color picture tubes imported in the same shipment as chassis and control panel assemblies into TSUS item 687.35, dutiable at 15% *ad valorem*, would improperly exceed the 5% *ad valorem* rate ceiling to which the United States has bound itself. Such violation would expose the United States to sanctions under the GATT, requiring the U.S. to pay compensation in the form of trade concessions to any aggrieved party or possibly subjecting U.S. exports to retaliation. Moreover, the bill's enactment would frustrate the United States' goal of stemming protectionist trends, expanding international trade through a new multilateral trade round, and resolving various important issues involving United States-Japan trade.

3. Enactment of S. 1288 Would Ignore Well-Established Principles of Tariff Classification

The existing tariff provision and Customs' application of it are consistent with both the specific history of the provision and the general structure of the TSUS. There is, in short, no need to enact S. 1288 in order to "correct" an "anomaly" in the Tariff Schedules.

General Headnote 10(h), enacted as part of the original TSUS in 1963, provides that, "unless the context requires otherwise, a tariff description for an article covers such article, whether assembled or not assembled and whether finished or not finished." It represents the distillation of principles embodied in the actual tariff provisions of prior customs acts. See Tariff Classification Study--Submitting Report, Nov. 15, 1960, pt. II, at 19.

Item 685.20, TSUS, the direct predecessor to the current provision for television receivers imported as assemblies having a picture tube, was also incorporated into the TSUS in 1963 and encompassed "television apparatus;" its superior headings, legislative history, and plain language did not restrict its scope to only assembled, or only finished units. In fact, this item was derived from Paragraph 353(20) of the Tariff Act of 1930, as amended, which provided for "articles having as an essential feature an electrical element or device . . . all the foregoing and parts thereof, finished or unfinished, wholly or in chief value of metal, and not specifically provided for . . . television apparatus; other" (emphasis added). It follows that item 685.20, TSUS, predecessor of current item 684.96, TSUS, encompassed television receivers whether assembled or not assembled, and whether finished or not finished.

A specific tariff item for television assemblies having a picture tube--as opposed to the previous treatment of such assemblies under a more general tariff item--originated as a result of negotiations undertaken by the President pursuant to the Trade Act of 1974.[13] During the Tokyo Round, the President agreed to lower duties for monochrome television assemblies having a picture tube in the 1979 Geneva Protocol to the GATT. To implement this tariff concession on monochrome assemblies, while retaining the current rates for color and monochrome complete receivers and color assemblies, the President created three separate tariff provisions for monochrome and color television apparatus in Presidential Proclamation 4707, 44 Fed. Reg. 72,348 (1979).[14] The key point is that the newly redesignated category for color television receiver assemblies having a picture tube, item 685.14 (now item 684.96), TSUS, retained the pre-Tokyo Round duty rate of 5 % *ad valorem*.

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[13] That Act empowered the President to enter into trade agreements to modify any existing duty, except duties on articles subject to Orderly Marketing Agreements ("OMAs"). *See* 19 U.S.C. §§ 2101, 2137, 2253. Color television receiver assemblies having a picture tube were specifically included as "incomplete color television receivers" subject to quantitative import restrictions under the Japan, Korea, and Taiwan OMAs of the late 1970s. Under the OMAs, "incomplete" color television receivers meant receivers which were "assembled to a substantially full extent." For this reason, the President actually could not negotiate to modify duty rates with respect to color television receivers, either complete or incomplete, during the Tokyo round.

[14] Specifically, item 685.20, TSUS ("Television Apparatus and Parts Thereof"), was broken down into item 685.11, TSUS ("Complete Television Receivers"), item 685.13, TSUS ("Monochrome Television Receiver Assemblies Having a Picture Tube"), and item 685.14, TSUS ("Color Television Receiver Assemblies Having a Picture Tube").

Further, it is a well established principle of Customs law that when an importation is classifiable as a single tariff entity, a tariff provision describing only a portion of that entity, however specifically, does not apply.[15] Indeed, numerous cases have classified an unfinished article under the provision for the article itself, despite the existence of specific provisions for certain of its parts.[16] Accordingly, Congress would manifest an intent that a tariff item encompass only finished or assembled articles not by creating tariff provisions for specific parts of the article, but by creating a separate provision specifically for the unfinished or unassembled article.[17] Thus, the fact that Congress created no separate tariff item in 1963 for "unfinished" television apparatus required, rather than prohibited, that they be classified in item 685.20, TSUS, together with finished apparatus. See also General Headnote 10(h).

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[15] F.W. Myers & Co., Inc. v. United States, 425 F.2d 781, 57 C.C.P.A. 87, (1970) (a tank railway car in unfinished condition is not classifiable under a tariff provision covering only the tank portion thereof); United Mineral & Chemical Corp. v. United States, 307 F. Supp. 347, 63 Cust. Ct. 522, (1969) (polyurethane foam bonded to pressure sensitive tape is not classifiable under the tariff provision for pressure-sensitive tape because this describes only a portion of the article); Lineiro v. United States, 37 C.C.P.A. 10 (1949) (a feed grain composed of three ingredients is classifiable as a single tariff entity, despite the fact that all three ingredients are specifically provided for in other tariff provisions).

[16] See, e.g., Yamaha International Corp. v. United States, No. 84-20, slip op. (Ct. Int'l Trade Mar. 9, 1984); Swift Instruments, Inc. v. United States, 554 F. Supp. 1235 (Ct. Int'l Trade 1982), aff'd 714 F.2d 161 (Fed. Cir. 1983).

[17] See, e.g., Hudson Shipping Co., Inc. v. United States,
(footnote continued)

Nor has General Headnote 10(h), TSUS, been applied in a result-oriented fashion, i.e., to classify a particular importation as an unfinished article or to break it up for separate classification, depending upon which result produces more customs revenue. Tariff classification principles are to be objectively applied, with the importer often thereby achieving a lower rate of duty.[18]

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75 Cust. Ct. 26 (1975) (the existence of a tariff provision for model kits indicates that unassembled models are not classifiable under the provision for models); Olympus Corp. of America v. United States, 72 Cust. Ct. 176 (1974) (a specific provision for frames and mountings for compound optical microscopes precludes classification of same as unfinished compound microscopes).

[18] See, e.g., Miniature Fashions, Inc. v. United States, 54 C.C.P.A. 11 (1966) (doctrine of entireties applied to allow lower rate of duty on cabana sets); Johnson Iron Works (Ltd.) v. United States, 10 Ct. Cust. App. 268, T.D. 38623 (1921) (boiler parts held not to constitute a substantially complete boiler, and entitled to duty-free entry as parts thereof); Pacific Fast Mail v. United States, 68 Cust. Ct. 41 (1972) (locomotive superstructures classified by Customs as toys held classifiable as unfinished model rail locomotives at a lower rate of duty); C.S.D. 83-44, 17 Cust. B. & Dec., No. 35 (Aug. 31, 1983) at 1 (subassemblies used in passenger aircraft entertainment/service system held classifiable as an entirety, duty-free, as parts of civil aircraft).

S. 1288 would, in essence, render it virtually impossible to have an "unfinished" television, by requiring separate tariff treatment of the picture tube portion unless it is completely assembled in a cabinet or imported as part of a kit containing all parts necessary for assembly into a complete receiver. Thus, the bill--far from closing a "loophole"--disregards the history of this item and its place in well established Customs and judicial precedent, creating instead an anomalous, result-oriented classification.

CONCLUSION

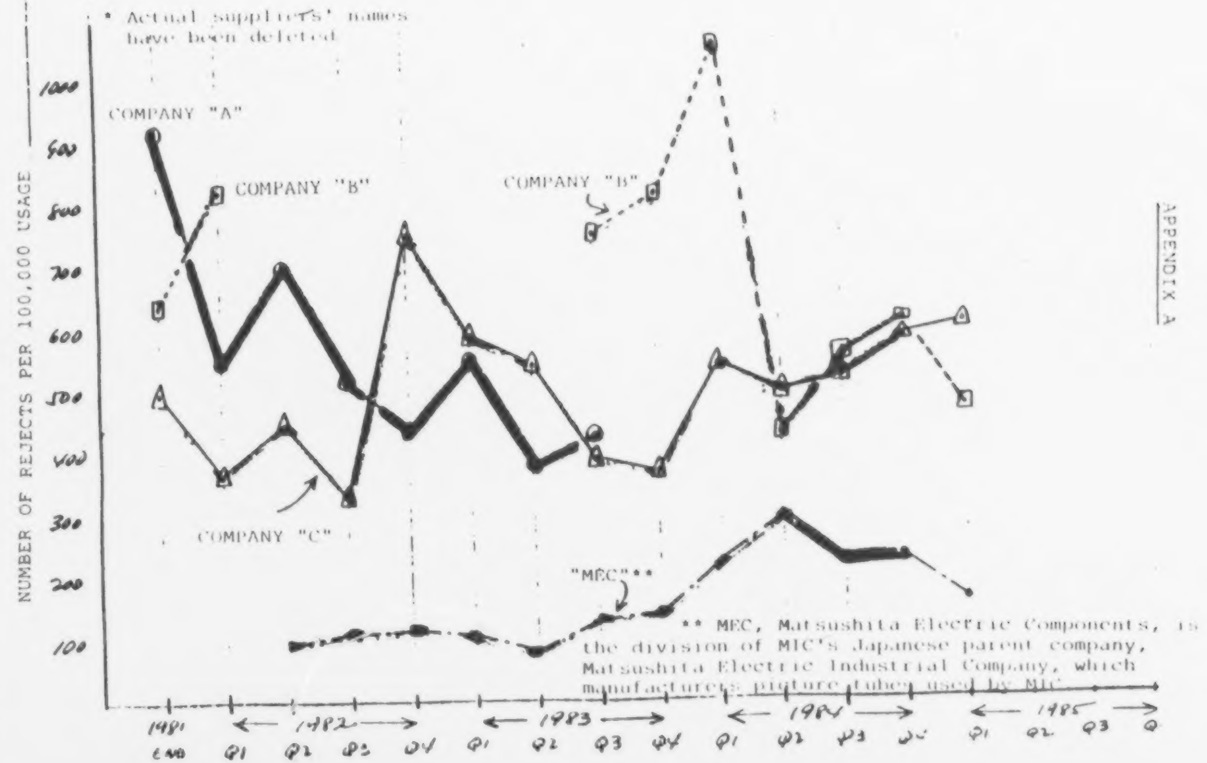
As the above discussion demonstrates, there are clear practical, policy, and legal grounds for not enacting this bill, and no benefits to be gained if it is enacted. The highly competitive nature of the color television market will surely drive U.S. producers in MIC's situation to shift a portion, or even all, of their final production operations outside of the United States if the option of importing picture tubes as part of television assemblies is foreclosed. That ironic, unintended result would be as frustrating to MIC as it would be to the overall economic welfare. MIC has striven to improve and expand its U.S. color television manufacturing operations, but could not continue to do so if the competitive strain were intensified by passage of this legislation. The ultimate harm will be to the U.S. economy--both directly in the television industry and indirectly as other foreign companies are discouraged from starting and expanding manufacturing here--and to U.S. workers.

In addition, enactment of S. 1288 would create a violation of GATT tariff agreements by the United States, subjecting the U.S. to compensation requirements or retaliation by other countries. Finally, the bill is not necessary in order to "correct" an "anomaly" in the Tariff Schedules. To the contrary, passage of the bill would ignore the history of this particular tariff item and would create a provision inconsistent with the general structure of the Tariff Schedules.

For these reasons, MIC urges Congress not to enact S. 1288.

APPENDIX A

PRODUCTION LINE REJECT RATE - 19" PICTURE TUBES*



* Actual suppliers' names have been deleted

** MEC, Matsushita Electric Components, is the division of MIC's Japanese parent company, Matsushita Electric Industrial Company, which manufactures picture tubes used by MIC

STATEMENT OF ROBERT TRAEGER, VICE PRESIDENT AND GENERAL MANAGER, TOSHIBA AMERICA, INC., NASHVILLE, TN

Mr. TRAEGER. Mr. Chairman, you have my written statement. So, in my brief time, I want to leave you with two crucial points.

First, S. 1288 is a well-intended effort to protect U.S. workers. It will not only fail to achieve that but will be counterproductive and actually destroy American jobs.

Second, ironically, it will reward American companies now moving jobs offshore and hurt companies like ours trying to expand operations and jobs here. We employ 400 American workers in the assembly of TV's, and this bill threatens their jobs without any benefit to the workers in the picture tube industry, and here is why.

We already purchase from United States companies all of our requirements for those picture tube sizes and types available in the United States. When we can buy here, we do. In fact, Mr. Chairman, most of the tubes that we use are made in the United States.

Only when a particular type of tube is not available in the United States do we import the tube, together with other receiver components. We pay a 5-percent duty on that as an unassembled TV receiver. The bill would triple that to 15 percent but leave in place a 5-percent duty on imported fully assembled TV's. If the bill is enacted, we still could not buy in the United States the tubes we now import.

Why? Because they are not made here; so the bill cannot help United States companies to sell to us more tubes made by American workers. All the bill would do is make it too expensive to import tubes and assemble TV sets here and, therefore, we could not be competitive. We would be forced to import fully finished TV's at a 5-percent duty, instead of assembling them in our Tennessee plant as we now do.

That means workers in Tennessee will lose their jobs. What is more, United States producers are not only phasing out United States production of certain tube sizes we now buy, such as 13 inch, but are themselves importing finished TV's. For example, as reported in TV Digest, Zenith now makes most of its 13-inch sets in Mexico instead of Missouri. If this bill passes and United States production of 13-inch tubes is phased out, we would have to pay 15 percent to import the tubes so that we can continue to make them in Tennessee, while Zenith pays 5 percent to import finished sets from Mexico.

This bill would punish us for making TV's in America while rewarding Zenith and other United States firms for moving American jobs offshore. That doesn't make sense, Mr. Chairman.

This bill won't put any more American jobs to work making TV tubes and TV's. It will only eliminate jobs for TV assembly workers. Thank you.

Senator DANFORTH. Gentlemen, thank you very much.

[The prepared written testimony of Mr. Traeger follows:]

COMMENTS OF
TOSHIBA AMERICA, INC.

submitted to the
COMMITTEE ON FINANCE

on
S. 1288
Amendments to Tariff Schedules of the United States
Concerning Television Apparatus and Parts Thereof

These comments are submitted on behalf of Toshiba America, Inc. ("TAI"), headquartered in Wayne, New Jersey. TAI strongly opposes S. 1288 and requests an opportunity to testify at the Committee hearing to be held on May 5.

TAI is a U.S. subsidiary of Toshiba Corporation of Japan. TAI conducts a number of substantial U.S. production operations, including the manufacture of televisions, microwave ovens and other electronic products at a plant located in Lebanon, Tennessee, near Nashville.

TAI imports from Japan and Singapore components constituting unfinished television receiver assemblies, including picture tubes, for those television models manufactured at its Tennessee plant for which picture tubes are not available in the U.S. Such assemblies are classifiable under item 684.96, TSUS, dutiable at a rate of 5% *ad valorem*.

S. 1288 would amend the Tariff Schedules to triple the duty rate on picture tubes included in unfinished color television receiver assemblies, by making such picture tubes classifiable separately under item 687.35, TSUS, dutiable at a rate of 15% *ad valorem*.

This 300% duty increase is presumably aimed at helping the American television industry and its workers. From TAI's perspective, however, it would have precisely the opposite effect:

- It would do *nothing* to encourage purchases of domestic picture tubes. *TAI already purchases from U.S. suppliers all of its requirements for those picture tube sizes and types which are available to it from U.S. suppliers.* The only picture tubes included in unfinished television receiver assemblies imported by TAI are picture tube sizes and types *not available from any U.S. manufacturers*. TAI itself plans to begin production of some of these tubes in the U.S. in a joint venture with Westinghouse in New York.

o While doing nothing to encourage purchases of domestic picture tubes, the bill would make it much more expensive for TAI to assemble in Tennessee those models for which it must import kits including picture tubes -- so expensive that TAI would almost certainly be forced to import those models as finished TV's, instead of assembling them in the U.S. Thus the bill's net impact would be a loss of jobs for U.S. workers. It would penalize TAI for making TV's in America while rewarding other U.S. firms for moving jobs offshore.

o The unilateral duty increase imposed by this bill on a GATT-bound tariff item would be a violation of U.S. obligations under the GATT, exposing the U.S. to retaliatory measures against U.S. exports, and thereby further threatening the jobs of American workers. The bill does not clarify any issue or close any "loophole" but reverses a longstanding tariff treatment based on fundamental classification principles.

o By sending the message that tariff structures can be suddenly changed outside the GATT and the normal administrative process, the bill would discourage foreign investment and undermine U.S. credibility in current trade talks with Japan, aimed at opening Japanese markets to U.S. electronics and other products.

BACKGROUND

Item 684.96, TSUS, derives from item 685.20, covering "television apparatus and parts thereof," dutiable at 10% *ad valorem*. This item was enacted as part of the original Tariff Schedules of the U.S. (TSUS) in 1962. At the same time Congress provided a separate tariff item (687.50) for television picture tubes, dutiable at a higher rate (15%). The TSUS also included General Headnote 10(h), which provides that a tariff description for an article covers that article "whether assembled or not assembled, and whether finished or unfinished."

In the 1967 Geneva Protocol to the GATT, which was completed at the conclusion of the Kennedy Round of

Multilateral Trade Negotiations (MTN), the United States agreed to assess a maximum duty rate of 5% *ad valorem* on television apparatus classified under TSUS *item 685.20*. A continuous, consistent line of U.S. Customs Service rulings, going back 14 years, has treated the basic operating portion of a receiver, when imported together with a picture tube, as an unfinished television receiver subject to this lower rate.

In five rulings beginning in 1971, Customs construed the original tariff description for television apparatus (item 685.20) to include incomplete television receiver assemblies, constituting the basic operating portion, imported together with picture tubes. Customs' decisions were based on General Headnote 10(h). In 1971, Customs ruled that a television chassis imported with a picture tube packed, unmounted, in the same carton (without cabinet, speakers and other parts), was classifiable under item 685.20. (Ruling Letter MFG 431.51MA, 009050 (Feb. 3, 1971)). In 1972, Customs ruled that an identical number of television tubes and chassis imported in the same shipment, to be assembled and put in cabinets in the U.S., were classifiable under item 685.20. (Ruling Letter MFG 431.51WR, 018022 (June 15, 1972)).

Again in 1973, Customs ruled that a chassis containing the essential components of a television set imported with a picture tube in the same shipment was to be classified as an "unfinished television receiver" under item 685.20. (Ruling Letter CLA-2:R:CV:S 431.51, 029088 (July 30, 1973)). In 1977, Customs held classifiable under item 685.20 kits containing a completed chassis, plus yoke, speakers and tuners, imported in unassembled condition, together with a picture tube. (Ruling Letter CLA-2:R:CV:MSP, 051204 SC (August 1, 1977)). In 1978, Customs ruled that transistors, diodes, capacitors, resistors, integrated circuits, printed circuit boards and the like combined in such a way as to constitute the basic operating portion of a television receiver were classifiable as an unfinished television set under item 685.20. (Ruling Letter CLA-2:R:CV:MSP, 053119 SC (September 7, 1978)).

In 1977, the Special Trade Representative (STR) directed the Customs Service to monitor color televisions and assemblies on the basis of statistical categories established by STR, in order to implement Orderly Marketing Agreements. These statistical categories were all subcategories of item 685.20 and included "complete television receivers," "kits containing all parts necessary for assembly into complete receivers," and "*other* assemblies," *i.e.*, less-than-complete kits. To the extent they constituted the basic operating portion of a receiver, these unfinished or incomplete assemblies were already classifiable under item 685.20 under the Customs rulings cited above going back to 1972.

In the Tokyo Round MTN, duty concessions were negotiated on monochrome assemblies. The 5% duty rate on color receivers and assemblies was left unchanged. To implement the monochrome concessions, the President established a series of new sub-categories under TSUS item 685.20 (Proclamation No. 4707 issued December 1979). These included item 685.11 and item 685.14. Item 685.11 (now item 684.92) covers "television receivers and parts thereof, having a picture tube, *complete television receivers*, color" and item 685.14 (now item 684.96) covers "television receivers and parts thereof, having a picture tube, *assemblies* (including kits containing all parts necessary for *assembly into* complete receivers)." Item 685.14 (now 684.96) clearly included but was not limited to "complete kits since it included the "other (*i.e.* less-than-complete) assemblies" subcategory created by *STR*; that statistical category is now item 684.9656-63. Again, these incomplete assemblies constituting the basic operation portion of a receiver, had always been classifiable under item 685.20, the predecessor to item 685.14 (now 684.96).

On three occasions after the 1979 amendments to the TSUS, the Customs Service affirmed that the basic operating portion of a television receiver imported together with a picture tube constituted "assemblies" classifiable under item 685.14, TSUS, dutiable at the 5% rate. CLA-2:CO:R:CV:S 067477SC (Sept. 24, 1981); CLA-2:CO:R:CV:S 067670SC (1982); CLA-2:CO:R:CV:S 071185SC (June 3, 1982). And this line of authority has been *recently reviewed again in exhaustive detail and upheld by the Customs Service*.

In 1983, domestic labor unions representing picture tube workers challenged Customs' classification under item 685.14 of unfinished television receiver assemblies including picture tubes. The challenge was filed pursuant to Section 516 of the Tariff Act of 1930, which enables domestic interested parties to petition Customs for a change in the classification of imported merchandise.

Customs issued an exhaustive decision, concluding that the merchandise, a television picture tube imported with chassis and customer control panel, was properly classified under item 685.14. (CLA-2 CO:R:CV:V 553020 BNS (Nov. 15, 1984)). The unions are now seeking judicial review of

Customs' decision in the Court of International Trade, pursuant to Section 516.

S. 1288 would overturn Customs' decision by amending the tariff schedules to require that picture tubes imported with an unfinished receiver assembly be classified separately under item 687.35, dutiable at a rate of 15% *ad valorem*. The bill would thus triple the duty rate on such picture tubes.

DISCUSSION

TAI opposes S. 1288 for the following reasons:

I. S. 1288 Will Not Increase Purchases of Domestically Produced U.S. Color Television Picture Tubes

The 300% duty increase which S. 1288 would impose will not induce TAI to purchase any U.S.-produced tubes in place of those TAI now imports. TAI already purchases from U.S. suppliers all of its requirements for picture tubes available to it in the U.S.

TAI purchases all the U.S.-made picture tubes it can because it has been able to obtain a better price for U.S.-made tubes, partly because of savings in freight and duty, and because U.S. purchasing reduces overall inventory levels and improves delivery time.

In 1985, TAI's purchases of U.S.-made tubes accounted for 62% of its total picture tube purchases in terms of volume and 60% in terms of dollar value. The U.S.-made tubes include conventional round tubes in sizes 13", 19" and 25". TAI also purchases 20" square tubes not meeting Toshiba-brand specifications but which it uses for contract production of other brands.

The picture tubes imported by TAI, as part of receiver assemblies, include conventional tubes in sizes under 13", size 15", and Flat Square Tubes in 14", 20" and 26" sizes for Toshiba-brand models. Conventional tubes in sizes under 13" and size 15" are currently not available from

U.S. producers. Flat square tubes (FST's) with the *specifications* required by TAI for Toshiba-brand televisions *are also unavailable in the U.S. in any screen size*. These flat square tubes employ advanced, patented technology developed by Toshiba.

Since the Flat Square Tubes needed for Toshiba sets are not offered by any U.S. manufacturer, the only way to "source" these Flat Square Tubes in the U.S. is to *make* them in the U.S. *And TAI is going to do so. TAI itself, in a joint venture with Westinghouse, will commence the manufacture of 20" flat square tubes in the U.S.*, at a plant in Horseheads, New York later this year. Thus TAI is taking the initiative to increase its "sourcing" of tubes in the U.S. independent of any legislative "inducement." Even after production commences at the Horseheads facility, however, it still will remain necessary for TAI to import conventional tubes in sizes less than 13", size 15", and Flat Square picture tubes in sizes 14" and 26" -- none of which are produced or sold in the U.S.

That TAI's 14" and 26" Flat Square TV's compete with various TV models offered by other manufacturers does *not* mean that TAI can simply use the tubes made by those manufacturers for their models. For example, RCA recently introduced a "Full Square" tube which is squarer than a conventional round tube but not flat, like Toshiba's "Flat Square Tube," and which has a completely different neck (electron gun), requires a different yoke and differs in other key specifications. TAI cannot use these new RCA tubes for manufacture of Toshiba-brand sets, although TAI does use them for manufacture of other brands.

Nor can TAI use any other tube which differs from its "Flat Square Tube" in key performance characteristics, unless TAI were willing to sell products identical to those of its competitors, which would be absurd, since it would mean giving up the product differentiation which affords consumers the benefits of new technology. The ability to offer new and different technology is vital to marketing of TV's.

It must be remembered that it is common for picture tube manufacturers to make tubes for other manufacturers' TV models, meeting those other manufacturers' specifications. Indeed, as noted, TAI buys most of its requirements for picture tubes from U.S. companies who also make TV's sold in competition with Toshiba TV's. But no U.S. supplier currently offers the 15" conventional and 14" and 26" Flat Square tubes with the specifications TAI needs. TAI must import them.

Further, it is likely that 13" conventional round tubes will no longer be available in the U.S. within the near future. It is important that the Committee not confuse the availability of U.S. brand name television receivers in that size range with the separate question of whether those receivers will include tubes manufactured in the U.S. They will not.

General Electric Co. has already discontinued production of 10" and 13" color television sets in the U.S. (TV Digest, Dec. 3, 1984, p. 11.) RCA has moved part of its production of high-volume 13" color sets outside the U.S., and plans to move the rest offshore; its future plans for production of 13" tubes are uncertain. North American Phillips Co. Consumer Electronics is phasing out U.S. manufacture of 13" sets in favor of obtaining them offshore; and Zenith has moved most of its 13" color television set assembly operation to Mexico. (TV Digest, Feb. 3, 1986, p. 10).

In short, TAI cannot now and will not in the future be able to obtain from U.S. suppliers the sizes and types of picture tubes it now imports (and will continue to import after the Westinghouse joint venture facility commences production). S. 1288 will therefore not induce additional purchases of U.S.-produced picture tubes, by TAI, since no amount of duty increase can induce companies to purchase in the U.S. tubes that are not made or sold here.

II. S. 1288 Threatens U.S. Jobs

While doing nothing to encourage increased sales of U.S.-produced picture tubes and increase jobs for U.S. picture tube workers, S. 1288 would jeopardize the jobs of TAI's American television assembly workers.

S. 1288 would increase the duty on the picture tubes included in receiver kits from 5% to 15%, but leave intact the 5% duty on finished TV's. Thus the bill would increase TAI's costs for those models by 10% of the value of the tubes included in the kits. Given the very price-competitive television market, this substantial increase would in all likelihood force TAI to import these models as finished TV's rather than assembling them in Tennessee.

TAI has recently opened a third assembly line for production of some of these models. The bill directly jeopardizes the future of this line and the jobs of the 100 employees who depend on it. TAI's existing production would almost surely be cut back further, with more loss of jobs, if it cannot afford to import kits for models for which tubes are not available here, including 13" sets for which U.S.-made tubes may be unavailable in the near future. In addition, the bill would deter growth in TAI's U.S. TV assembly operation. There is room for three more lines at the Nashville facility. This bill will certainly discourage future expansion by making it too costly to assemble in Tennessee models for which TAI must import receiver components including picture tubes.

Indeed, in the case of 13" sets, if the bill passed and TAI did not start to import finished sets, TAI would be competing at a disadvantage with major U.S. firms. As noted, increasingly these firms are not only stopping U.S. production of 13" tubes, but are importing finished 13" sets. They are not making anything here. Some firms have already announced plans to make other models and sizes of TV's offshore -- some of which will compete with the TV's for which TAI must import the tube in order to assemble the set in Tennessee. In all these cases, TAI would pay 15% duty to import the tube for assembly here while others pay only 5% to import the finished TV. This bill would penalize TAI for making TV's in America while rewarding other U.S. firms, TAI's competitors, for moving jobs offshore. And that doesn't make sense.

To the extent it encourages offshore assembly, the bill would also adversely impact the U.S. firms from which TAI now obtains componentry for the television sets assembled in Tennessee. This componentry includes the cabinets, wire harnesses and certain other components such as antennas and power cords. Cabinets are a substantial part of the cost of a television set. Taken together, these U.S.-produced components represent fully 40 percent of the materials cost of the televisions assembled in Tennessee.

At a time when U.S. parent firms are moving their television manufacturing outside the U.S., TAI is expanding its U.S. operations and putting more Americans to work. S. 1288 threatens to make such expansion economically senseless -- and indeed will force TAI to cut back existing U.S. assembly operations.

Insofar as it affects TAI, then S. 1288 would seriously threaten a loss of U.S. jobs without creating a single additional sale of any picture tube by any U.S. firm. The net impact of the bill will be less, not more, U.S. employment.

III. Enactment of S. 1288 Would Violate GATT

The TSUS amendment to be effected by S. 1288 would be a violation of U.S. obligations under the GATT. As noted above, the United States agreed in the 1967 Geneva Protocol (Kennedy Round), to a maximum duty of 5% *ad valorem* on television receivers classified under TSUS item 685.20. This item number has been repeatedly and consistently interpreted by Customs as including unfinished receiver assemblies having a picture tube, pursuant to General Headnote 10(h). S. 1288 would re-define television receivers to exclude unfinished assemblies, and would subject picture tubes included in such assemblies to a 15% duty, rather than the 5% maximum duty agreed to in the Geneva Protocol.

This unilateral tariff increase by the United States would violate Article II(1)(a) of the GATT, which provides:

> Each contracting party shall accord to the commerce of the other contracting parties treatment no less favourable than that provided for in the appropriate Part of the appropriate schedule annexed to this Agreement.

This provision prohibits the United States, a GATT signatory, from establishing a duty rate on an import which would exceed the duty rate agreed to either in the schedule annexed to the GATT or negotiated at a subsequent trade round and embodied in a Protocol to the GATT. More specifically, paragraph 5 of Article II prohibits increases in such duty ceilings through changes in classification. S. 1288, by increasing a GATT-bound rate through a classification change, exposes the U.S. to sanctions including compensation to parties affected by modifications to the established duty rate ceiling.

IV. S. 1288 Would Reverse a Long-Standing Tariff Treatment Based on Fundamental Principles

This bill would not clarify any open issue or close any "loophole." To the contrary, it would reverse a longstanding tariff treatment based on consistent application by Customs of fundamental classification principles.

As noted in the background discussion above, Customs has ruled consistently, going back to 1972, that an incomplete assembly containing the basic operating portion of a television receiver, imported with a picture tube, is classifiable as an "unfinished" television receiver subject to the 5% rate. These rulings were based on the fundamental principles, enacted by Congress as part of the TSUS in 1962, that while a part of an article imported separately and specifically provided for is to be classified under that specific provision (General Headnote 10(ij)), unassembled parts sufficient to constitute an "unfinished" article are to be classified as the article itself (General Headnote 10(h)). There is absolutely no indication that Congress ever intended any different principle to apply with respect to picture tubes imported as part of an unfinished television assembly.

Neither STR in 1977, nor the President in 1979, intended to change the existing treatment of unfinished assemblies including picture tubes. These assemblies were classifiable under item 685.20 at 5% well before 1979 and have remained classifiable under the successor to item 685.20 (item 685.14, now item 684.96) at 5% after 1979.

In short, there is no "loophole" here to be filled. The current tariff treatment is based on application of fundamental classification principles enacted by Congress and consistently applied by Customs over a 13-year period.

V. S. 1288 Would Discourage Foreign Investment

Toshiba and other foreign firms have made and expanded investments in U.S. production facilities in recent years. In the current expansion of its Tennessee assembly plant, Toshiba has relied on the long-standing tariff treatment of unfinished assemblies including picture tubes.

S. 1288 would send the message -- not only to foreign television manufacturers but to all foreign companies contemplating the opening or expansion of U.S. production operations -- that tariff structures critical to such operations may well be drastically changed at any time, outside the GATT process and outside the normal process of Customs and court review. This message can only serve to discourage foreign firms from investing in U.S.-production facilities. Such a result would be inconsistent with the policy, strongly espoused not only by the current Administration but by all Administrations in recent years, of creating more jobs through foreign investment in U.S. manufacturing facilities.

VI. S. 1288 Would Undermine U.S. Trade Policy

Congress of course is the ultimate arbiter of tariff classification disputes and is empowered to establish and modify the TSUS in any way it deems fit. But to overturn settled expectations of U.S. trading partners based on years of administrative precedent, and to circumvent the administrative and judicial process for interpreting tariff items, would surely be perceived by our trading partners as "bending the rules" of fair trade, even if it were not also a clear violation of their rights under negotiated agreements. Sure- ly the U.S. cannot afford to undermine its own credibility in this way at the very time when it seeks to enforce its own rights under agreements with Japan and other countries and to open foreign markets to U.S. goods in the name of free trade.

Further, enactment of S. 1288 would invite a flood of petitions to Congress to increase duties on particular components of unfinished merchandise in "inverted tariff" situations (where duties on a component are higher than those on the completed product). This would have serious ramifications for both retaliation and disruption of trade negotiations.

CONCLUSION

Enactment of S. 1288 would not encourage sales of domestic picture tubes, would jeopardize the jobs of U.S. television assembly and other workers, would discourage foreign investment and would violate U.S. obligations under the GATT and undercut U.S. trade policy. For these reasons, S. 1288 should not be enacted.

Submitted by:

Burton V. Wides
Joseph E. Sandler
ARENT, FOX, KINTNER, PLOTKIN & KAHN
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339
(202) 857-6234

Counsel for Toshiba America, Inc.

Senator **Danforth**. Let me say that this is my bill, and I do want to do something if I can for the United States television industry, especially where it is hanging on by its fingernails. I have to say that I do think that, despite the fact that it is my bill, Mr. Kraft and Mr. Traeger have given me some pause, in that under the present tariff scheme, the more work that is done abroad in manufacturing television sets, the lower the tariff. Therefore, if the entire set is imported, and all of the work is done abroad, there is a 5-percent tariff.

On the other hand, if only components are shipped in and the rest of the work is to be done in the United States, there is a 15-percent tariff. Mr. Pearlman.

Mr. **Pearlman**. Mr. Chairman, we would be delighted to see a 15 percent tariff on whole television sets. We didn't think that that was practical. I would like to speak to the point about the Zenith sets being assembled in Mexico.

The picture tubes in those sets are all made in Chicago. We are spending the freight to send them down to Mexico to join with electronics that are there; and they, of course, go in in bond and have no duty coming back. They are all United States content to begin with. Also, I have 13-inch tubes to sell if you would really like to buy 13-inch tubes—made in America.

I also believe that the comment that we are going to force jobs out of the United States that wouldn't otherwise go is simply not accurate. The freight and shipping and capital cost tieup on large-screen tubes is such that the large-screen sets are going to continue to be made here. There is an enormous amount of freight and very little foreign enterprise that could make console cabinets—furniture-style cabinets—and that business is going to stay here.

The fact that Toshiba is investing in a picture tube plant here, I think, speaks to the viability of the industry if the customer base and the manufacturer is here.

Senator **Danforth**. All right. I just want to ask you one other question, Mr. Pearlman. You and I had an interesting conversation earlier, and you described to me at some length the difficulty of competing—American business competing—with the Far East.

Could you, just in a nutshell, repeat some of your comments to me about, for example, television production in Korea and so on? And what you are up against?

Mr. **Pearlman**. We are an industry that has documented and has had issued by the proper United States authorities dumping findings. We have been competing in a very difficult price environment for 15 years. In my company alone, we have had a $150 million price reduction in an $800 million business in the last 5 years.

Because of the way the administrative process works, there has been very little relief provided to the industry. The first Japanese dumping finding was in 1971, but there were no penalties assessed until the law change and the Commerce Department finally got control of the process and 1 year in which to act. And then, there was a dumping finding of $660 million, which was negotiated to 10 cents on the dollar.

So, the only money ever collected was $66 million. There was a finding against the Koreans. The Koreans have about 10 million picture tubes annual capacity in place today for a domestic industry of about 1 million units. They are putting in another 10 million units of capacity. Their intent is hopefully to sell these all into the United States, which is a 17 million unit industry.

There was a dumping finding against the Koreans at the end of 1984 that was retroactive to 1983—nothing has been collected. And the industry—the domestic industry—which is now down to two major manufacturers, RCA and Zenith, with GE announcing that they are no longer going to manufacture, feels like it is fighting a water balloon.

If you step down on one piece of the balloon in order to try and treat the problem with dumping findings, then it squishes up somewhere else with imports of kits, with imports of picture tubes at 5 percent. The administrative process and the legislative process have not caught up with it.

The entire U.S. industry is losing money at record industry unit volume. It has lost money in aggregate for 15 years. This is a reflection of how unhealthy the entire situation has been and how little redress we have had.

Senator Danforth. Could you just, in about 15 seconds, tell us how successful you have been in pursuing your court remedies. In other words, some people feel that the answer to unfair trade practices and dumping and so on is to go to court. You have been in court

When did you first go to court?

Mr. Pearlman. We filed a private antitrust and antidumping suit in 1974. We have yet to get to trial on that suit. We have had 12 years of delay. The Supreme Court only a month ago issued a ruling; but we have not yet had a trial.

And the way the law system works here and in dumping findings, there is no interest clock. So, it pays the defendants to hire the best possible lawyers and push the ultimate day of reckoning out forever because, so long as you pay the lawyer less annually in fees than the interest savings on not paying the penalty you are ahead.

Senator Danforth. Senator Pryor.

Senator Pryor. Thank you, Mr. Chairman. Mr. Chairman, I won't take much time. I know you have a lot of other witnesses. I want to tell you a story, Mr. Chairman.

About 10 years ago, I had the good fortune and the grand opportunity to be Governor of the State south of you, and that is the State of Arkansas. And I remember when a very large plant in Forrest City, AR, closed—a television manufacturer closed there. Now, I will never forget one morning, and this was in the depths of the recession of 1975 and 1976, when the chairman of our Arkansas Industrial Development Commission walked into my office and said we had a prospect for that plant over in Forrest City.

And I said, gosh, who is it? We have got to find someone; and he said the Sanyo Corp. And I said: What? A Japanese corporation? He said: Yes.

Well, anyway, one thing led to another. It was the first time in our State that a corporation from another country had come over like this to take over; and we didn't know how it would work. But let me give you a report after 10 years.

We have today—after that plant was closed down—I think that we have somewhere in the neighborhood of 2,000 employees at Sanyo, the largest employer in the Delta area of our State. And I just wanted to add here—and I am not testifying against your bill, Mr. Chairman—that I am glad that you said that the statements by Mr. Traeger and Mr. Kraft gave you pause because I am assured by the Sanyo people that from time to time their production situation is such that they have to go outside of this country to purchase tubes.

They try to buy everything that they can to make those sets in this country, but from time to time they must go to Japan or go to Korea or go to somewhere else. And they, too, I would say, would like to side with a couple of the statements made here today in expressing their concern over that dilemma.

Senator **Danforth**. Mr. Donahue and Mr. Pearlman, would you be happy to sell tubes to the Sanyo people in Arkansas?

Mr. **Donahue**. Not only happy, but our tube division is one of their large suppliers. I would also like to point out——

Mr. **Pearlman**. We are a minor supplier, but we would be happy to be a larger supplier.

Mr. **Donahue**. I would also like to point out that we at RCA have the largest market share of 19 inch and everything above 19 inch, and we are able to maintain that without importing a single tube in those product categories, by some means.

Senator **Pryor**. I shouldn't even ask this question, but do you have beyond 30 or below 13?

Mr. **Donahue**. I said 19 and above. We do use some 13's from offshore.

Senator **Pryor**. All right. At any rate, I don't know the technical aspects of it, Mr. Chairman, but I think this has been very interesting. I thank the chairman for allowing me to make those comments.

Mr. **Kraft**. Pardon me, Senator?

Senator **Pryor**. Yes?

Mr. **Kraft**. Could I make just one comment, so that there is no misinterpretation? We also at MIC buy a large volume of domestic CRT's—picture tubes; but we find that for our business purposes, to maintain our best business operations, it is best for us to buy a share of both. And I would like to be able to continue to have that opportunity into the future for our business reasons. Thank you.

Mr. **Sandler**. Mr. Chairman. I am counsel to Mr. Traeger. With respect to Mr. Donahue's remarks about being happy to sell Toshiba the tubes, the tubes that Toshiba imports are ones of a size and type that he doesn't make. And however happy they may be, there is no choice but to import them.

It is just a question, as you correctly pointed out, whether to bring them in in a finished set or to use American workers to make them here.

Mr. **Pearlman**. And that is really a scale question: Toshiba, as the largest picture tube producer in the world, has many more types and varieties and is able to make the capital investment in producing those picture tubes. They have not elected to make that investment in the United States because it costs a lot of money to tool each size. So, what they would like is to trade on their world scale in those very limited segments where they could get a distinct marketing advantage against the rest of us who have to invest in each tube one at a time.

Senator DANFORTH. I thank you very much. I know you all have a lot more to say, but we also have a number of panels yet to appear. Thank you very much for your testimony.

The next panel is on S. 1651: Louis Murphy, Acting Director, Office of Industry Assessment, International Trade Administration; and Ted Palmer, chairman of the board and chief executive officer of Kalama Chemical, Inc. Mr. Murphy.

STATEMENT OF LOUIS MURPHY, ACTING DIRECTOR, OFFICE OF INDUSTRY ASSESSMENT, INTERNATIONAL TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE, WASHINGTON, DC

Mr. MURPHY. Thank you, Mr. Chairman. Mr. Chairman, the administration is opposed to enactment of S. 1651 because we believe it is likely to have an adverse effect on at least one United States producer of the chemicals concerned. There are some others, we understand—some other potential producers—also considering production at this time.

The current manufacturer was not producing the chemical when the initial duty suspension was granted almost 3 years ago. However, that manufacturer has invested over $2.5 million in a facility to produce it. We understand that producer is having some initial startup problems. However, they do plan to produce 3 million pounds of the chemical this year and offer half of it for sale in the commercial market. Subsequently, they plan to double that production level, which in effect would mean an estimated 4½ to 5 million pounds of the domestically produced chemical available for commercial sale in the near future.

With that in mind, and the fact that the domestic production was not carried out at the time of the initial suspension, we believe that the circumstances have changed. Thank you, Mr. Chairman.

Senator DANFORTH. Thank you, sir. Mr. Palmer.

STATEMENT OF TED W. PALMER, CHAIRMAN OF THE BOARD AND CHIEF EXECUTIVE OFFICER, KALAMA CHEMICAL INC., SEATTLE, WA

Mr. PALMER. Mr. Chairman, thank you for the opportunity to speak out in support of Senate bill 1651. I am the chairman and chief executive officer of Kalama Chemical.

Kalama Chemical is a Seattle based manufacturing company engaged in the manufacture and sale of a variety of specialty and fine chemicals, including a line of preservative chemicals based on the subject product, that is what I will refer to as Paraacid. The products we manufacture are called Parabens or Paraseps. They are sold and used by a number of companies in the cosmetic manufacturing business.

At the moment, I would like to disagree with the previous testimony in that we are a consumer-purchaser of the Paraacid; and to our knowledge and to our belief, there is no viable commercial supply in the United States. We have been producing these products for a number of years, and there have been a number of companies who have iodicated an interest and, in fact, a willingness to produce Paraacid.

It is a somewhat difficult chemical to produce. In fact, a major chemical company, Monsanto, made some effort to produce that chemical several months ago and decided against it as not being commercially viable. So, at the moment, we are totally dependent on the import of the Paraacid as the raw material for our line of preservatives. We have been in contact with the company that intends to produce the product, and they have indicated an interest and a willingness to sell the product to us at such time as they are in commercial production. That first offer came to us some time prior to 3 years ago—probably 4 years ago.

As of today, we have not received samples. We are aware and the industry is aware that the product is not available for use or for sale; and we believe the difficulties experienced by the company attempting to produce it may extend for quite some period of time. In the meantime, we would like to take advantage of the take advantage of the temporary suspension of the existing tariff.

The other factor I wish to point out is that the major competition we have in the domestic market is a Japanese producer which not only produces Paraacid, which we use as raw material, but also produces the final product and sells it in direct competition with us. Any increase in our current costs of imported materials will put us at a definite competitive disadvantage to this Japanese producer which at the present time has the single largest share of the United States market.

I would like to ask the committee to support S. 1651, which would reinstate the previous tariff situation; but I should also point out that, if a viable supply of U.S. produced material becomes available, we would be happy to purchase paracid domestically and see the temporary duty suspension expire. Thank you.

Senator DANFORTH. Thank you, sir.

[The prepared written testimony of Mr. Palmer follows:]

STATEMENT
of the

KALAMA CHEMICAL, INC.

before

THE SENATE FINANCE COMMITTEE
S. 1651

Good afternoon, my name is Ted W. Palmer and I'm the Chairman of the Board and Chief Executive Officer of Kalama Chemical Company of Seattle, Washington. Kalama Chemical strongly supports the passage of S. 1651.

Kalama Chemical, Inc., commenced operation on February 1, 1971, with the acquisition from Dow Chemical Company of a chemical plant located in Kalama, Washington. Through a series of acquisitions, Kalama Chemical, Inc., has grown into a national chemical company. Its largest acquisition occurred in December, 1982 when it purchased from Tenneco Chemicals, Inc., a chemical manufacturing plant located in Garfield, New Jersey. The New Jersey plant has been a significant importer of p-hydroxybenzoic acid and competes in the paraben market with other domestic manufacturers and imports from Japan, Taiwan, Israel and Europe.

P-hydroxybenzoic acid is a chemical intermediate with three primary market applications: paraben preservation, specialty coatings, and high performance plastics.

For many years, p-hydroxybenzoic acid has been used to produce a class of preservative known as parabens (specifically, methyl paraben, propyl paraben, butyl paraben, and ethyl paraben). These materials are widely used in the U.S. cosmetics and toiletries industry. In its 1984 report, "Frequency of Preservative Use in Cosmetic Formulations," the Food and Drug Administration ranked methyl paraben, propyl paraben, and butyl paraben among the five most widely used preservative products. The parabens are particularly effective against fungi and gram positive bacteria, and they occupy a unique cost/performance niche in the U.S. preservative market.

Until recently, the bulk of the U.S. consumption of p-hydroxybenzoic acid has been governed by demand for preservatives, such as the parabens, in the cosmetics and toiletries industries. Being mature markets, the market share for the paraben based products has stabilized over the years. Consequently, so has demand for p-hydroxybenzoic acid. Total sales for this use of the acid has leveled at about two and a half million pounds annually.

The continued duty free status of para acid will allow the U.S. industry to remain competitive in the world market for parabens. The duty free status enjoyed from 1983 to October 1, 1985, allowed for reduced costs of production resulting in a better competitive position for United States companies in the paraben market. Since the paraben market is a world market, tariff protection on para acid will hurt the domestic industry's ability to compete.

Kalama Chemical has been made aware of the purported domestic production of para acid by two producers. It is our understanding that neither of these producers has begun commercial operations. Neither company has offered to sell para acid to Kalama Chemical. In fact, we believe that even if they become operational, the joint production of these two plants will not be sufficient to satisfy the raw material needs for one of the company's paraben production. One of these companies, NAAP Chemical, operates its facility nearby our New Jersey facility and we are aware of the difficulties they are experiencing in an attempt to produce para acid.

It is our belief that the Administration's position opposing the bill and the House's inaction on the companion bill H.R. 2313 were based on inaccurate information about the potential for the domestic production of the chemical. The reality is that domestic production, if it exists at all, is grossly inadequate to meet the needs of the U.S. industry.

The paraben market is a highly competitive market in which U.S. chemical companies enjoy substantial tariff protection. Failure to restore duty free status for para acid will result in a competitive imbalance for the domestic and will reduce our ability to provide value added benefits to the economy through the production of parabens. Thank you for this opportunity to present the real situation on the production of para acid.

Senator DANFORTH. What is the situation with respect to a viable United States supply, Mr. Murphy? Is there an American producer?

Mr. MURPHY. There is a producer who has just started initial production. A member of our Office of Chemicals talked to the production manager of their company yesterday. They said they have had startup problems. They intend to produce up to 3 million pounds this year, of which 50 percent would be available for commercial purchase. They intend subsequently to double that production to 6 million pounds, which would be—with their own needs of about 1 million to 1½ million pounds—4½ to 5 million pounds on the commercial market.

We cannot say, nor can the other witness, exactly when that will happen. They have started production. There have been some, they say, startup problems; but they are fully intending to make a commercially viable operation.

Senator DANFORTH. And how about if the suspension does not expire? Then what would happen?

Mr. MURPHY. It is our information that the suspension has expired. This bill would be just a reinstitution of that suspended duty.

Senator DANFORTH. All right.

Mr. MURPHY. They believe that would have an adverse effect on their future expansion plans and any other potential domestic producers entering into the industry.

Senator DANFORTH. Have you communicated with this producer, Mr. Palmer?

Mr. PALMER. Yes, indeed, we have. We have been in contact with them and have explained to them that we would be happy to have a domestic source. We wish them well in that endeavor. However, this particular suspension expired in October of last year in anticipation of their production at that time. To my knowledge, their plant has been in a startup phase for the better part of a year; and some industry sources believe it may be at least another year, if indeed ever, before they are able to make a commercially viable operation.

Certainly, their intentions are there, but the performance to date and our experience with that technology would lead us to believe that it may be quite some time before there is a viable United States producer.

Senator DANFORTH. Gentlemen, thank you both very much.

Next, we have S. 1709, Mr. Jerome Myers, president of Rooster, Inc. Michael Hathaway, the Senior Deputy General Counsel of the USTR was to appear, but his wife had a baby this morning. Mr. Myers.

STATEMENT OF JEROME MYERS, PRESIDENT, ROOSTER, INC., PHILADELPHIA, PA, ACCOMPANIED BY GERALD ANDERSEN, EXECUTIVE DIRECTOR, NECKWEAR ASSOCIATION OF AMERICA, INC., NEW YORK, NY; AND STANLEY NEHMER, PRESIDENT, ECONOMIC CONSULTING SERVICES, WASHINGTON, DC

Mr. MYERS. Thank you, Mr. Chairman. My name is Jerome B. Myers. I am president of Rooster, Inc., a manufacturer of neckties, located in Philadelphia, PA. I am also president of the Neckwear Association of America. I am accompanied today by Gerald Andersen, executive director of the association, and Mr. Stanley Nehmer, president of Economic Consulting Services, Inc.

Domestic neckwear producers strongly support S. 1709 introduced by Senator Johnston, which would return the duties on necktie imports to the levels in effect as of January 1, 1981 for a temporary period of 5 years. As a consequence of the sharp reductions in United States duties on necktie imports during the Tokyo round, imports of neckties have increased from a 4-percent share of the U.S. market in 1979 to 21 percent in 1985. As import duties have been reduced, the U.S. market for men's and boys' neckties has become increasingly penetrated by imports.

Imports of neckties almost tripled between 1982 and 1985. Necktie imports from Italy present a particular problem. Italy is by far the largest supplier of neckties to the United States market. And most of the imports from Italy consist of silk neckties. Silk neckties from Italy alone account for 44 percent of total imported neckties from all sources. Unfortunately, the United States has no bilateral agreement under the multifiber arrangement with Italy to control the growth of imports, and silk products are not presently covered by the MFA.

Since so many neckties are made of silk, our industry does not benefit from the MFA as may the rest of the textile/apparel industry. There are currently no bilateral restraint agreements in effect on neckwear imports. Thus, the necktie industry is disadvantaged to an extent not experienced by any other textile or apparel sector.

Mr. Chairman, besides passing S. 1709, which would give some temporary relief to our industry, our industry would benefit greatly by the inclusion of silk neckties and fabrics under the multifiber arrangement. We hope that our Government will also consider negotiating an arrangement with Italy on silk neckties to limit United States imports of these products. We have arrangements to control textile products with other EC members, notably Portugal and Spain. There is no reason not to include Italy as well.

These two additional steps would provide some long-term relief and and hope for our industry. Thank you, Mr. Chairman.

Senator DANFORTH. Thank you, Mr. Myers. Don't you think we should see what happens with the MFA negotiations and then legislate, rather than vice versa?

Mr. MYERS. Mr. Nehmer.

Mr. NEHMER. May I just comment, Senator? The question, of course, is whether or not silk would be covered under the MFA as extensed. It is not at all clear that this is the case. We are not getting any clear signals from the administration on that score; but second, there has been no action taken against Italy for any textile product, and furthermore the industry with regard to another type of necktie, polyester neckties, where imports has been growing at a very fast rate from Korea, has been trying to get the interagency group to take action under the existing MFA and has been unsuccessful in doing so.

So, I would fear that waiting for what comes out of Geneva and the MFA is really a very long shot for us. We need help sooner.

Senator **Danforth**. You feel that the administration is so inactive in trade matters that you don't look for any possibility of negotiated relief? You think Congress should get into it?

Mr. **Nehmer**. I think that is very well put, Senator. This is a good example of——

Senator **Danforth**. A good example of a more general problem.

Mr. **Nehmer**. Of a general problem. We happen to be a microcosm of that.

Senator **Danforth**. I haven't focused really on the necktie situation, but I think that your general point is quite persuasive.

Mr. **Nehmer**. Thank you, sir.

Senator **Danforth**. Gentlemen, thank you very much for your testimony.

Mr. **Myers**. Thank you, Senator.

Senator **Danforth**. Next, we have S. 1809: Mr. Franklin Vargo, Deputy Assistant Secretary for Europe, Department of Commerce; and Charles Perrin, president of the National Board of Fur Farm Organizations, Inc. Mr. Vargo.

[The prepared written testimony of Mr. Myers follows:]

STATEMENT OF JEROME B. MYERS, PRESIDENT ROOSTER, INC., PHILADELPHIA, PENNSYLVANIA ON BEHALF OF NECKWEAR ASSOCIATION OF AMERICA

IN SUPPORT OF S. 1709

May 8, 1986

My name is Jerome B. Myers, President of Rooster Inc., a manufacturer of neckties located in Philadelphia, Pennsylvania. I am also President of the Neckwear Association. I am accompanied today by Gerald Andersen, Executive Director of the Association and Stanley Nehmer, President of Economic Consulting Services Inc., our Washington representative.

I am appearing on behalf of the Neckwear Association, whose members are concentrated in New York City, and in New Jersey, Louisiana, Pennsylvania, Missouri, North Carolina, Texas, Massachusetts, California, and Michigan.

We strongly support S. 1709 introduced by Senator Johnston, which would return the duties on necktie imports to the levels in effect as of January 1, 1981, for a temporary period of five years. We support this bill because conditions in our industry are rapidly deteriorating as imports increase at an alarming rate. This legislation offers some hope of relief from this tremendous growth in imports.

As a consequence of the sharp reductions in U.S. duties on necktie imports during the Tokyo Round, imports of neckties have increased from a 4 percent share of the U.S.

market in 1979 to 21 percent in 1985. When fully implemented, the Tokyo Round cuts will range from a 20 percent reduction in some necktie categories to more than a 50 percent reduction in the former duty rate in other necktie categories.

As import duties have been reduced, the U.S. market for men's and boys' neckties has become increasingly penetrated by imports. Imports of neckties almost tripled between 1982 and 1985. Over that same period, shipments of domestically produced neckties fell by about 2 percent, and the 1985 shipment level was 7 percent below the 1984 level.

Necktie imports from Italy present a particular problem. Italy is by far the largest supplier of neckties to the U.S. market, and most of the imports from Italy consist of silk neckties. Silk neckties from Italy increased steadily from 193,000 dozen in 1982 to 708,000 dozen in 1985, and last year accounted for 86 percent of total silk necktie imports. Indeed, silk neckties from Italy alone also accounted for 44 percent of total neckties from all sources. The U.S. has no bilateral agreement under the Multifiber Arrangement (MFA) with Italy to control the growth of imports, and silk products are not presently covered by the MFA.

Since so many neckwear products are of silk, our industry does not share the protection of the MFA with the rest of the textile/apparel complex. Thus, the necktie industry is disadvantaged to an extent not experienced by any other textile or apparel sector.

Besides passing the bill S. 1709, which would give some temporary relief to our industry, the Neckwear Association urges the members of this Committee to look to solutions which would provide longer term assistance to this industry. Certainly one such step would be broader fiber coverage so as to include silk under the Multifiber Arrangement. Both the Senate and House have already spoken affirmatively to this issue in legislation passed late last year, the Textile and Apparel Trade Enforcement Act. Second, but equally important, the astronomical growth in silk necktie imports from Italy needs to be checked. The United States should consider negotiating an arrangement with Italy on silk neckties to limit U.S. imports of these products. We have arrangements to control other textile products with other EC members, notably Portugal and Spain. There is no reason not to include Italy as well. These two additional steps would provide some long-term relief and hope for our industry.

Conclusion

Because of the unprecedented increase in necktie imports which we could not have anticipated during the MTN negotiations when necktie duties were severely cut, we are asking Congress to return these duties to what they were in 1981 for a period of five years while the industry has time to adjust. The import situation, if not temporarily cooled, will overwhelm domestic necktie producers. Stabilizing the duties on necktie imports for a brief period as provided in S. 1709 would help calm the waters in our industry. Equally important to the long-term health of our industry is broadening the fiber coverage under the MFA to include silk, and an agreement to control the growth of silk neckties from Italy.

STATEMENT OF FRANKLIN J. VARGO, DEPUTY ASSISTANT SECRETARY FOR EUROPE, DEPARTMENT OF COMMERCE

Mr. VARGO. Thank you, Mr. Chairman. I am here to present the administration's position on S. 1809, a bill which would remove an import embargo on Soviet furskins. I have a prepared statement for the record and some brief remarks to make.

President Reagan considers this legislation an important part of his effort to build a more constructive relationship with the Soviet Union. Passage of S. 1809 would be a modest but concrete demonstration of United States willingness to respond to constructive steps taken by the Soviets. The Soviet Union has taken steps which are leading to a significant increase in United States exports. Trade with the U.S.S.R. last year produced a $2 billion surplus for the United States, our third largest with any country.

On the other hand, removal of the embargo should have little or no impact on the United States fur industry. Two years ago, President Reagan set three major objectives for United States-Soviet relations. One of them was to establish a better working relationship between the two countries. Expansion of peaceful trade can and should be a part of our effort to build a better working relationship.

Realistically, though, there are a few steps we can take. Changes in controls on strategic trade are not something we will consider. Extension of MFN, or official credits, is linked to emigration and would not be possible in the absence of a significant change in Soviet emigration policy.

Last May, Secretary Baldrige went to Moscow for the first meeting in 7 years of the Joint United States-U.S.S.R. Commercial Commission. He proposed both sides should take some initial steps to improve the trade relationship where possible. He told them the first thing had to be for the Soviets to open up their market to American firms. The Soviet Trade Minister agreed, and in writing told Soviet foreign trade organizations they should provide bid invitations to United States firms, provide United States companies with access to Soviet officials, and consider United States proposals strictly on their economic merits. Since then, United States companies have reported a sharp change. They are getting bid inquiries. They are getting in to see Soviet officials. And they are getting new business.

Soviet orders for United States machinery and equipment have increased to about $240 million in 1985, compared to only $70 million in 1984. These new orders mean more than 5,000 new jobs in United States manufacturing firms; and it is all nonstrategic trade. In consideration of these steps, Secretary Baldrige announced in Moscow that the administration would propose legislation to remove the furskin embargo.

This action would have significant symbolic importance. It would demonstrate the United States willingness to take concrete steps to improve the bilateral relationship where possible.

Removal of the Soviet embargo moreover would have little or no impact on the domestic fur industry, and fur industry sources confirm that the 1983 removal of the import ban on Chinese furskins has had little or no impact.

The Soviet fur industry has not been growing. Their share of the world fur trade has been declining. The Soviet Union's furs are sold in public auctions in Leningrad and London, and it is international fur traders—not Soviet officials—who make the marketing decisions on where to sell.

In recent years, five of the furskins have been shipped from the Soviet Union only in very limited quantities or not at all. The Soviet Union does export mink and fox, but United States and Soviet mink and fox furskins are of sharply different qualities. United States ranchers produce the world's highest quality mink. More than 80 percent of United States mink production is exported, and it is sold in countries where Soviet furs are also sold. Soviet export mink is middle to low quality and competes with Scandinavian and other producers.

United States fox is mostly trapped and is of low quality. It is not in direct competition with Soviet fox, which is ranch raised and among the world's highest quality. The bulk of United States fox production is exported outside the United States.

To the extent that Soviet furskins were to be imported into the United States, they would displace the sales of other exporting countries, rather than United States production. I should also point out that the embargo never applied to garments made from Soviet furskins, and Soviet furskins have been entering the United States market legally for years in the form of apparel made in other countries.

Mr. Chairman, let me repeat that the steps undertaken by the Soviets are creating thousands of United States jobs while analysis indicates there will be little or no effect on the domestic furskin industry. Removal of the ban is symbolically very important. It will show that the United States is willing to make concrete responses when the Soviets take actions that contribute to a more constructive working relationship. Thank you, Mr. Chairman.

Senator DANFORTH. Thank you, sir. Mr. Perrin.

[The prepared written testimony of Mr. Vargo follows:]

STATEMENT OF
FRANKLIN J. VARGO
DEPUTY ASSISTANT SECRETARY FOR EUROPE
U.S. DEPARTMENT OF COMMERCE

BEFORE THE
SUBCOMMITTEE ON TRADE
SENATE FINANCE COMMITTEE

MAY 8, 1986

MR. CHAIRMAN:

I AM HERE TO PRESENT THE ADMINISTRATION'S POSITION ON S. 1809, A BILL WHICH WOULD REMOVE AN IMPORT EMBARGO ON SEVEN TYPES OF SOVIET FURSKINS. PRESIDENT REAGAN CONSIDERS THIS LEGISLATION AN IMPORTANT PART OF HIS EFFORT TO BUILD A MORE CONSTRUCTIVE RELATIONSHIP WITH THE SOVIET UNION.

PASSAGE OF S. 1809 WOULD BE A MODEST, BUT CONCRETE, STEP TO REMOVE A LONG-STANDING IRRITANT IN U.S.-SOVIET TRADING RELATIONS. THIS ACTION WILL SERVE AS A DEMONSTRATION OF U.S. WILLINGNESS TO REMOVE OBSTACLES TO A MORE PRODUCTIVE BILATERAL RELATIONSHIP IN THE INTEREST OF BOTH COUNTRIES.

S. 1809 IS IN THE ECONOMIC INTEREST OF THE UNITED STATES. THE SOVIET UNION HAS AGREED TO TAKE STEPS WHICH WILL LEAD TO A SIGNIFICANT INCREASE IN U.S. EXPORTS. TRADE WITH THE U.S.S.R. LAST YEAR PRODUCED A $2 BILLION SURPLUS, OUR FOURTH LARGEST WITH ANY COUNTRY. ON THE OTHER HAND, REMOVAL OF THE EMBARGO SHOULD HAVE LITTLE OR NO IMPACT ON THE U.S. FUR INDUSTRY.

RELATIONS WITH THE SOVIET UNION

TWO YEARS AGO PRESIDENT REAGAN SET THREE MAJOR OBJECTIVES FOR U.S.-SOVIET RELATIONS: 1) TO REDUCE, AND EVENTUALLY ELIMINATE, THE THREAT AND USE OF FORCE IN SOLVING INTERNATIONAL DISPUTES; 2) TO REDUCE ARMS STOCKPILES; AND 3) TO ESTABLISH A BETTER WORKING RELATIONSHIP BETWEEN THE TWO COUNTRIES.

EXPANSION OF PEACEFUL TRADE WHICH BENEFITS BOTH PARTIES SHOULD BE A PART OF OUR EFFORT TO BUILD A BETTER WORKING RELATIONSHIP WITH THE SOVIET UNION. BY "PEACEFUL TRADE," WE MEAN NON-STRATEGIC TRADE CONSISTENT WITH EXISTING U.S. LAWS AND POLICIES. STRATEGIC GOODS AND TECHNOLOGY ARE PROSCRIBED BY U.S. EXPORT CONTROLS AND THE MULTILATERAL CONTROLS WHICH WE MAINTAIN ALONG WITH OUR ALLIES.

TRADE IN STRATEGIC GOODS AND TECHNOLOGY IS NOT A TOPIC ON THE TABLE FOR DISCUSSION. HOWEVER, THE UNITED STATES CAN BENEFIT FROM INCREASED PEACEFUL, NON-STRATEGIC TRADE THROUGH MORE EXPORTS AND JOBS.

U.S.-SOVIET TRADE

LAST MAY, SECRETARY BALDRIGE WENT TO MOSCOW FOR THE FIRST MEETING IN SEVEN YEARS OF THE JOINT U.S.-U.S.S.R. COMMERCIAL COMMISSION. HE TOLD THE SOVIETS OF PRESIDENT REAGAN'S DESIRE TO SEE PEACEFUL TRADE GROW, AND PROPOSED THAT BOTH SIDES SHOULD TAKE SOME INITIAL STEPS TO IMPROVE THE TRADE RELATIONSHIP WHERE THAT WAS POSSIBLE.

THE SECRETARY TOLD THEM THAT U.S. COMPANIES FELT FROZEN OUT OF THE SOVIET MARKET, AND THAT THE FIRST THING THAT HAD TO HAPPEN WAS FOR THE SOVIET SIDE TO OPEN UP THEIR MARKET TO U.S. FIRMS.

THE SOVIET MINISTER OF FOREIGN TRADE AGREED TO SEND AN UNPRECEDENTED LETTER TO SOVIET FOREIGN TRADE ORGANIZATIONS ENSURING THEY WOULD PROVIDE BID INVITATIONS TO ALL INTERESTED U.S. FIRMS, PROVIDE U.S.COMPANIES WITH ACCESS TO SOVIET OFFICIALS, AND CONSIDER PROPOSALS ON THEIR ECONOMIC MERITS.

SINCE THE TRADE TALKS, U.S. COMPANIES HAVE REPORTED A SHARP CHANGE. THEY ARE RECEIVING BID INQUIRIES. THEY ARE GETTING IN TO SEE SOVIET OFFICIALS. AND THEY ARE BEING ASKED TO COME UP WITH NEW PROPOSALS.

SINCE THEN, SOVIET ORDERS FOR MACHINERY AND EQUIPMENT FROM U.S. FIRMS HAVE RUN FAR ABOVE THE PREVIOUS LEVEL. THEY TOTALLED ABOUT $240 MILLION IN 1985, COMPARED TO ONLY ABOUT $70 MILLION IN 1984. THOSE NEW ORDERS, INCIDENTALLY, MEAN MORE THAN FIVE THOUSAND NEW JOBS IN U.S. MANUFACTURING FIRMS.

THE NUMBER OF NEW BUSINESS POSSIBILITIES UNDER DISCUSSION BETWEEN U.S. FIRMS AND SOVIET TRADE ORGANIZATIONS CONTINUES TO GROW, AND SUCCESS HERE WILL MEAN EVEN MORE EXPORT GROWTH. BUT IN ORDER TO MAINTAIN THIS PROGRESS, WE HAVE TO SHOW SOME MOVEMENT ON OUR SIDE. THIS CAN'T BE A ONE-WAY STREET.

REALISTICALLY, THERE ARE VERY FEW STEPS WE CAN TAKE. CHANGES IN CONTROLS ON STRATEGIC TRADE ARE NOT SOMETHING WE CAN CONSIDER. EXTENSION OF MFN OR OFFICIAL CREDITS IS LINKED TO EMIGRATION, AND WOULD NOT BE POSSIBLE IN THE ABSENCE OF A SIGNIFICANT CHANGE IN SOVIET EMIGRATION POLICY.

THE EMBARGO ON SOVIET FURSKINS

ONE MODEST STEP WE COULD TAKE, HOWEVER, WOULD BE TO END THE 1951 EMBARGO ON IMPORTS OF SEVEN TYPES OF SOVIET FURSKINS. THE EMBARGO ORIGINALLY APPLIED BOTH TO THE SOVIET UNION AND TO THE PEOPLES'S REPUBLIC OF CHINA. LEGISLATION SIGNED INTO LAW IN 1983, HOWEVER, REMOVED THE BAN FROM THE PRC. IN CONSIDERATION OF SOVIET STEPS TO OPEN THEIR MARKET TO U.S. FIRMS, SECRETARY BALDRIGE ANNOUNCED IN MOSCOW THAT THE ADMINISTRATION WOULD PROPOSE LEGISLATION TO REMOVE THE FURSKIN EMBARGO.

THIS ACTION WOULD HAVE VERY SIGNIFICANT SYMBOLIC IMPORTANCE. IT WOULD DEMONSTRATE OUR WILLINGNESS TO TAKE CONCRETE STEPS TO IMPROVE THE BILATERAL RELATIONSHIP WHERE THAT IS POSSIBLE.

ACCORDING TO FUR INDUSTRY SOURCES, REMOVAL OF THE IMPORT BAN ON CHINESE FURSKINS HAS HAD LITTLE OR NO IMPACT ON OUR DOMESTIC INDUSTRY. COMMERCE DEPARTMENT ANALYSTS EXPECT REMOVAL OF THE SOVIET EMBARGO ALSO TO HAVE LITTLE OR NO IMPACT ON THE DOMESTIC FUR INDUSTRY. A SUMMARY OF OUR ANALYSIS IS ATTACHED TO MY STATEMENT.

THE SOVIET FUR INDUSTRY IS MATURE AND HAS NOT SEEN PRODUCTION INCREASES. THE SOVIET UNION'S FURS ARE SOLD IN AUCTIONS AT LENINGRAD, AND THE U.S.S.R. HAS ALREADY BEEN SELLING ALL THE FURS IT COULD IN ORDER TO EARN FOREIGN EXCHANGE.

THE SOVIET SHARE OF WORLD FUR TRADE HAS BEEN DECLINING. IN RECENT YEARS, FIVE OF THE SEVEN FURSKINS -- ERMINE, KOLINSKY, MARTEN, MUSKRAT, AND WEASEL -- HAVE BEEN SHIPPED FROM THE SOVIET UNION TO THE WORLD ONLY IN VERY LIMITED QUANTITIES, OR NOT EXPORTED AT ALL. THE SOVIET UNION HAS EXPORTED NO MUSKRAT SINCE 1982.

THE SOVIET UNION DOES EXPORT APPRECIABLE QUANTITIES OF MINK AND FOX. U.S. AND SOVIET MINK AND FOX FURSKINS ARE OF SHARPLY DIFFERENT QUALITIES, AND GENERALLY COMPETE IN DIFFERENT MARKET SEGMENTS.

U.S. RANCHERS PRODUCE THE WORLD'S HIGHEST QUALITY MINK. MORE THAN 80 PERCENT OF U.S. MINK PRODUCTION IS EXPORTED, AND IS MANUFACTURED INTO HIGH-QUALITY GARMENTS OVERSEAS. SOVIET EXPORT MINK IS MIDDLE TO LOW QUALITY, AND COMPETES WITH SCANDINAVIAN AND OTHER PRODUCERS.

IN THE CASE OF FOX, THE SITUATION IS THE OPPOSITE. U.S. FOX IS MOSTLY TRAPPED AND IS OF LOW QUALITY. IT IS NOT IN DIRECT COMPETITION WITH SOVIET FOX, WHICH IS RANCH-RAISED, AND AMONG THE WORLD'S HIGHEST QUALITY. THE BULK OF U.S. FOX PRODUCTION IS EXPORTED OUTSIDE THE UNITED STATES.

I SHOULD ALSO POINT OUT THAT THE EMBARGO NEVER APPLIED TO GARMENTS MADE FROM SOVIET FURSKINS, AND SOVIET FURSKINS HAVE BEEN ENTERING THE U.S. MARKET FOR YEARS AFTER BEING MADE INTO APPAREL IN OTHER COUNTRIES. TO THE EXTENT THAT SOVIET FURSKINS ENTERED THE U.S. MARKET INSTEAD OF IMPORTED GARMENTS MADE FROM THOSE FURSKINS, AMERICAN PROCESSORS AND GARMENT MAKERS WOULD BENEFIT.

IF SOVIET FURSKINS WERE TO BE IMPORTED INTO THE UNITED STATES, THEY WOULD DISPLACE THE SALES OF OTHER EXPORTING COUNTRIES TO THE U.S. MARKET, RATHER THAN DISPLACING U.S. PRODUCTION.

CONCLUSION

MR. CHAIRMAN, LET ME CONCLUDE BY REPEATING THAT REMOVAL OF THE FUR EMBARGO IS IN THE INTEREST OF THE UNITED STATES. THE STEPS UNDERTAKEN BY THE SOVIETS ARE LEADING TO INCREASED U.S. EXPORTS THAT ARE ALREADY CREATING THOUSANDS OF U.S. JOBS, WHILE ANALYSIS INDICATES THERE WILL BE LITTLE OR NO EFFECT ON THE DOMESTIC FURSKIN INDUSTRY.

REMOVAL OF THE BAN IS SYMBOLICALLY VERY IMPORTANT. IT WILL SHOW THAT THE UNITED STATES IS WILLING TO TAKE CONCRETE ACTIONS TO ESTABLISH A MORE CONSTRUCTIVE WORKING RELATIONSHIP WITH THE SOVIET UNION IN AREAS OF MUTUAL INTEREST.

THANK YOU, MR. CHAIRMAN.

STATEMENT OF CHARLES PERRIN, PRESIDENT, NATIONAL BOARD OF FUR FARM ORGANIZATIONS, INC., CHEROKEE, IA

Mr. PERRIN. My name is Charles Perrin. I am president of the National Board of Fur Farm Organizations, and I am a mink farmer and a grain and livestock farmer from Iowa. And I only wish that the poor people from Afghanistan were here to listen to this presentation. I would like to speak on behalf of the fur farmers in regard to lifting of the Russian embargo on mink and fox skins.

We ranchers feel that we would be placed in very unfair competition with the Russians' state-subsidized fur industry if this embargo were lifted. Russia is the largest producer of mink and fox in the world at this time. They produce approximately 15 million mink, and the United States produces a little over 4 million. Lifting of this embargo would certainly widen our trade deficit even more.

We are already importing over 1 million more than we export. Russia will not allow the breeding stock of their sable in any kind of a fair trade. We feel they are holding several million of last year's pelts, waiting for this trade embargo to be lifted, so that they possibly could dump them on the American market. We export approximately 50 percent of our production—not 80 percent, as earlier stated by Senator Dole and Mr. Baldridge. These figures are from the export/import figures from the Bureau of the Census of the U.S. Department of Commerce.

The fur farmers in the Midwest—Iowa, South Dakota, Nebraska, Minnesota, Wisconsin, and Illinois—produce nearly 50 percent of our United States mink. And most fur farmers in the Midwest are also grain and livestock farmers. In the past few years, the cost of production and the strong dollar and the general economy have made fur farming like the rest of agriculture: a very disappointing business.

The uniqueness of our business is the products which we feed our animals are waste byproducts. These products are obtained from fisheries, poultry plants, packing houses, dairy breweries, potato, and cane processors. Our annual feed bill is nearly $83 million that it takes to raise these.

The U.S. fur farmers produce a higher quality of fur than the rest of the world. However, only the top one-third of our production enjoys this status. The other two-thirds would be in close competition with foreign imports, and this is where we feel we would be at a definite disadvantage competing with a State-run competitor.

In 1946, my three brothers and myself came home from World War II and, with our father and a GI loan, we started a mink ranch with 46 mink in a backyard operation. Four generations are now involved in raising 30,000 mink. We own a section of land. We have 12 additional employees and run a 200-head herd of stock cows. And now, it appears our Government is preparing us as a sacrificial lamb. We didn't let our country down in 1943, and we hope our country doesn't let us down now.

If you cannot see your way clear to keep this embargo, then please consider excluding mink from the list or include a fair tariff. Please don't dig our grave in the Midwest any deeper. We are having a terrible time as it is. We have a saying back there that we are hearing that President Reagan is going to put us farmers back on our feet. And the way he is going to do that is he is going to take our pickups away from us. Thank you. [Laughter.]

Senator DANFORTH. Thank you, sir.

[The prepared written statement of Mr. Perrin follows:]

OUTLINE OF STATEMENT ON BEHALF OF NATIONAL BOARD OF FUR FARM ORGANIZATIONS, INC., IN OPPOSITION TO S.1809

The National Board of Fur Farm Organizations, Inc., on behalf of the 3200 American family farmers who secure their livelihood from the production of mink and fox fur pelts, submits the attached statement in opposition to S.1809, which would repeal the 34-year embargo on the import of Russian mink and fox furskins. The statement sets forth the following points:

I. THE IMPORTANCE OF U.S. FUR FARMING TO THE AMERICAN AGRICULTURAL ECONOMY.

American fur farming is an important contributor to American agriculture throughout the United States, accounting for approximately $166,000,000 of annual expenditures in producing the world's finest mink and fox fur pelts.

II. THE DECLINE IN U.S. FUR FARMING.

Floods of cheap imported mink and fox furskins, chiefly from Scandinavia, during the past two decades, and the current strength of the U.S. dollar, have reduced American fur farmers to the level of bare survival.

III. ABILITY OF AMERICAN FUR FARMERS TO COMPETE IN THE DOMESTIC MARKET AND ITS IMPACT UPON THE U.S. TRADE DEFICIT.

The world's largest market for mink and fox fur garments is the United States, whose consumers prefer a quality of fur which constitutes the bulk of the American crop. However, at this level of quality, American fur farmers are directly competing with foreign producers with substantially lower costs of production. The decline in U.S. fur exports contributes to the growing U.S. trade deficit.

IV. RUSSIA'S STATE-SUPPORTED PRODUCTION.

Russia is the world's largest producer of mink and fox furskins, and because of its state-supported lower costs of production, would enjoy a substantial competitive advantage over U.S. producers in the American market.

For all of the foregoing reasons, as expanded upon in the attached statement, the American fur farming industry demands the rejection of S.1809.

RUSSIAN THREAT TO U.S. FUR FARMING

The sacrifice of nearly 3200 American family farms to state-controlled Russian fur interests is proposed by the Administration, appparently to appease Soviet trade negotiators and open Russian markets to the products of a few large American corporate enterprises. Enactment of S.1809, repealing the 34-year embargo on the import of Russian mink and fox furskins, will be catastrophic not only to those thousands of American families directly engaged in producing high quality agricultural products, and their thousands of employees, but for the supplier industries which depend upon those farmers.

American fur farming is not a cottage industry marketing its products in roadside boutiques. American fur farming shares the whirlwind now being visited upon American agriculture by unwise governmental policies. American fur farming is defenseless against an invasion of low-price Russian furs. American fur farming demands the rejection of S.1809.

I. THE IMPORTANCE OF U.S. FUR FARMING TO THE AMERICAN AGRICULTURAL ECONOMY.

Virtually all American fur farms are family owned and operated in the traditional manner, with every member of the family actively participating in the production of the annual crop. In some cases, as many as four generations of a family work side by side during busy times of the year. American fur farmers have never sought nor do they seek subsidies of any sort.

Most American fur farmers have no formal scientific education. Nevertheless, all are skilled geneticists and animal husbandmen by experience. Since their livelihood depends upon the appearance and quality of the fur produced by them, the care, physical comfort and humane treatment of their animals is of primary importance. Since most American fur farmers live in close proximity to their animals, the development and maintenance of sound environmental practices has been a priority concern to these farmers.

Although much of the labor involved in raising and caring for mink and fox is provided by family members, American fur farms are significant employers of agricultural workers. Especially during the November and December harvest season, these farmers provide a valuable scurce of employment and income to their communities.

Most American fur farms are located in the northern tier of states stretching from Massachusetts to Washington, with Wisconsin, Minnesota, Utah, Oregon, Iowa, Illinois, Ohio, New York and Pennsylvania being among the larger producers. However, since fur farmers are substantial purchasers of the by-products of the fish, poultry and beef industries, fur farming is an important part of agriculture in such beef, poultry and fish producing states as California, Nebraska, Georgia, Massachusetts, Missouri and Florida.

American fur farmers produced 4.22 million mink fur skins in 1984, according to U.S. Department of Agriculture figures. With breeder animals, U.S. fur farmers fed 5.53 million mink during 1984, at an average annual feed cost per animal of $15.00, for a combined 1984 feed expenditure of 82.95 million dollars. In addition, consumable supplies such as lumber and wood by-products, wire, vaccines, and tools resulted in an average expenditure per animal (exclusive of direct labor and marketing expense) of approximately $20.00.

Virtually all of the agricultural and industrial by-products used on mink and fox farms are of a quality so low as to have no other market. Each mink, for example, converts approximately 100 pounds of otherwise valueless meat, poultry and fish by-products into important economic products. Without fur farming as its customer, American meat, poultry and fish producers would be confronted with the environmentally-hazardous problem of disposing of over one-half billion pounds of waste each year.

Since the average cost of production per animal in 1984 was approximately $30.00 per mink, American fur farmers, during 1984, spent nearly $166,000,000 to produce their crop, virtually all of which expenditure was for materials and services for which no other market exists.

II. THE DECLINE IN U.S. FUR FARMING.

Prior to 1960, American and Canadian fur farmers produced the bulk of mink and fox furskins consumed in the world. Indeed, in 1963, U.S. farmers produced over 7 million mink furskins on approximately 7,000 mink farms. By 1972, however, the U.S. Department of Agriculture reported only 1,379 mink ranches producing pelts. During that year, slightly less than 3 million mink pelts were produced on American farms.

Much of this decline is directly traceable to a significant increase in the importation of mink furskins into the United States during that decade, primarily from Scandinavia. The Scandinavian countries had produced approximately 2.9 million mink in 1960, or significantly less than the production of American mink ranches. However, by 1963, total imports into the United States of mink furskins were 4,460,000, virtually all from the Scandinavian countries. By 1966, imports were 5,675,000 furskins. By contrast, during that year, American fur farmers exported only 1,124,000 furskins. By 1971, American fur farmers had been virtually excluded from the domestic market, and were forced to concentrate their efforts on exports.

During the 1970's, American fur farmers were successful in developing foreign markets for their high-quality furskins. As a result of their efforts, and, not incidentally, because of the general weakness of the United States dollar in world currency markets during the late 1970's and early 1980's, those fur farmers who had survived the Scandinavian invasion had been able to compete successfully in world markets. In 1980, for example, American fur farmers received an average price of approximately $42.00 per each mink pelt, representing a fair profit for most producers.

However, the artificial and persistent strength of the U.S. dollar since 1981 has virtually eliminated all profits from the American fur farming industry. For the 1984 crop, American mink producers are estimated to have received an average of approximately $30.00 per pelt, or almost precisely the average cost of production. Most smaller producers operated at a loss. Reliable estimates, based upon field reports from potential buyers of furskins and feed suppliers, are that as many as 30 per cent of all American fur farmers will cease operations after the current harvest. Absent a significant increase in the price for American furskins during the selling season which began January, 1986 (and preliminary market reports indicate that prices are already reduced a further 10-20 percent), virtually all American fur producers will be in jeopardy of being forced out of business.

III. ABILITY OF AMERICAN FUR FARMERS TO COMPETE IN THE DOMESTIC MARKET AND ITS IMPACT UPON THE U.S. TRADE DEFICIT.

Administration supporters of S.1809 erroneously suggest U.S. fur farmers, who export as much as 80 per cent of their product, will not be affected by opening the American market to Russian furskins. These assertions are simply wrong.

Statistics now available from the Departments of Commerce and Agriculture reveal that U.S. exports of mink furskins have fallen dramatically, in both numbers and value, during 1984-85. At the same time, imports of mink furskins boomed to record levels. America is now a net importer of a product, mink furskins, originally native only to North America.

These figures, supplied by the Administration, demonstrate the inaccuracy of previous assertions by Secretary of Commerce Baldridge and Senator Dole that since

80 per cent or more of American mink furskins is exported, opening the U.S. market to Soviet furs will have little impact upon the domestic industry. Indeed, the continuing flood of foreign - source mink furskins, produced at low cost and enjoying the advantage of persistent strength of the dollar, is already overwhelming many American family fur farmers.

Here are the facts:

DOMESTIC MINK PRODUCTION AND EXPORTS

	1984	1985
Mink pelts produced*	4,137,000	4,220,000
Pelts exported	2,520,000	2,335.000
Market value of all pelts produced	$123,700,000	$119,000,000
Market value of exports	$ 67,497,000	$ 62,328,000
% of pelts exported	60.9	56.0
% of market value exported	54.6	52.3

FOREIGN MINK PELTS IMPORTED

	1984	1985
Total pelts imported	3,279,000	3,346.000
Total market value of imported pelts	$ 93,021,000	$101,192,000
Net deficiency - Exports vs. imports	- 759,000	- 991,000
NET TRADE DEFICIT TO UNITED STATES	-$25,525,000	-$38,864,000

*Mink furskins produced in Autumn are generally sold the following year. Thus 1983 and 1984 production was sold and exported or imported in 1984 and 1985, respectively.

Source:

Export & Import Data: Bureau of the Census,
Nondurable Goods Div., ITA/TD/AACG, U.S.

Department of Commerce.

Production Data: Crop Reporting Board,
Statistical Reporting Service, U.S. Dept. of Agriculture.

Administration supporters of S.1809 likewise suggest that the relatively high quality of American-produced mink and fox furskins renders them invulnerable to any competitive threat posed by Russian furskins of commercial or low grade quality. Again, this assertion is based upon an erroneous assumption.

Although American mink and fox farmers continue to produce the world's highest-quality furskins, nearly two-thirds of American production is deemed by the marketplace "commercial" or low-grade. Moreover, virtually all of the high quality American furskins continue to be exported for use by the high fashion designers and manufacturers in Europe, the American market being deemed a "commercial" market for fur garments.

Thus with respect to the bulk of their crop, American fur farmers compete directly with foreign producers of "commercial" furskins in the American market. Since the cost of producing a "commercial" grade furskin is not demonstrably less than the cost of producing a high-quality skin, American producers are at a distinct disadvantage competing with foreign producers with costs of production significantly less and, in many cases, state subsidies and assistance. The largest current exporter of fur garments to the United States, virtually all of a "commercial" grade, is South Korea, utilizing furskins purchased from Scandinavia and, increasingly, China. (In 1982, Congress repealed the embargo on importation of mink and fox furskins from the Peoples Republic of China. At that time, China's estimated production of mink furskins was 3 million; since that time, production estimates have increased to 6 million, virtually all of which is exported, made into "commercial" garments, and distributed to "commercial" markets such as the United States).

Having been forced out of export markets, American fur farmers now find themselves forced to compete in the domestic market with a quality of product equivalent to that being offered by their Scandinavian and Chinese competitors, but at an overwhelming disadvantage by reason of cost of production and undervalued foreign currencies.

IV. RUSSIA'S STATE-SUPPORTED PRODUCTION.

No reliable estimates currently exist concerning the volume of Russia's annual production of mink and fox furskins. Since the Soviet fur producing industry is entirely state-controlled, the amount of fur made available for export is purely at the discretion of the Russian government. For a number of years, chiefly during the period of 1967 through 1980, Russia exported approximately 2 million mink furskins annually. However, annual exports of Russian mink furskins during 1983 and 1984 are estimated to be closer to 3 million, although the Russians do not always utilize traditional marketing outlets which would permit accurate identification of total exports. Informal contacts with Russian officials result in estimates of annnual

Russian mink production of between 12 and 15 million pelts, all of which could be exported at the whim of the Russian authorities.

As a state enterprise, Russian fur producers enjoy substantial cost of production advantages over American producers. All employees of Russian fur farms are state employees, nearly all of whom live in housing supplied by the government on the farms. Although Russia does not appear to produce great quantities of beef, with resulting by-products, Russian fur producers enjoy readily available fish (including, it is known, whale meat), other protein by-products and grain supplies. All of these factors permit Russian fur to be produced at significantly lower cost than American mink.

The potential effect of this cost advantage is demonstrated by the illegal importation of Russian furskins in 1980, for which four American purchasers were convicted in the U.S. District Court for the Southern District of New York. The evidence in those cases revealed that the average pelt price for those illegally imported Russian mink was $13.00. This amount would scarcely cover annual feed costs for American producers.

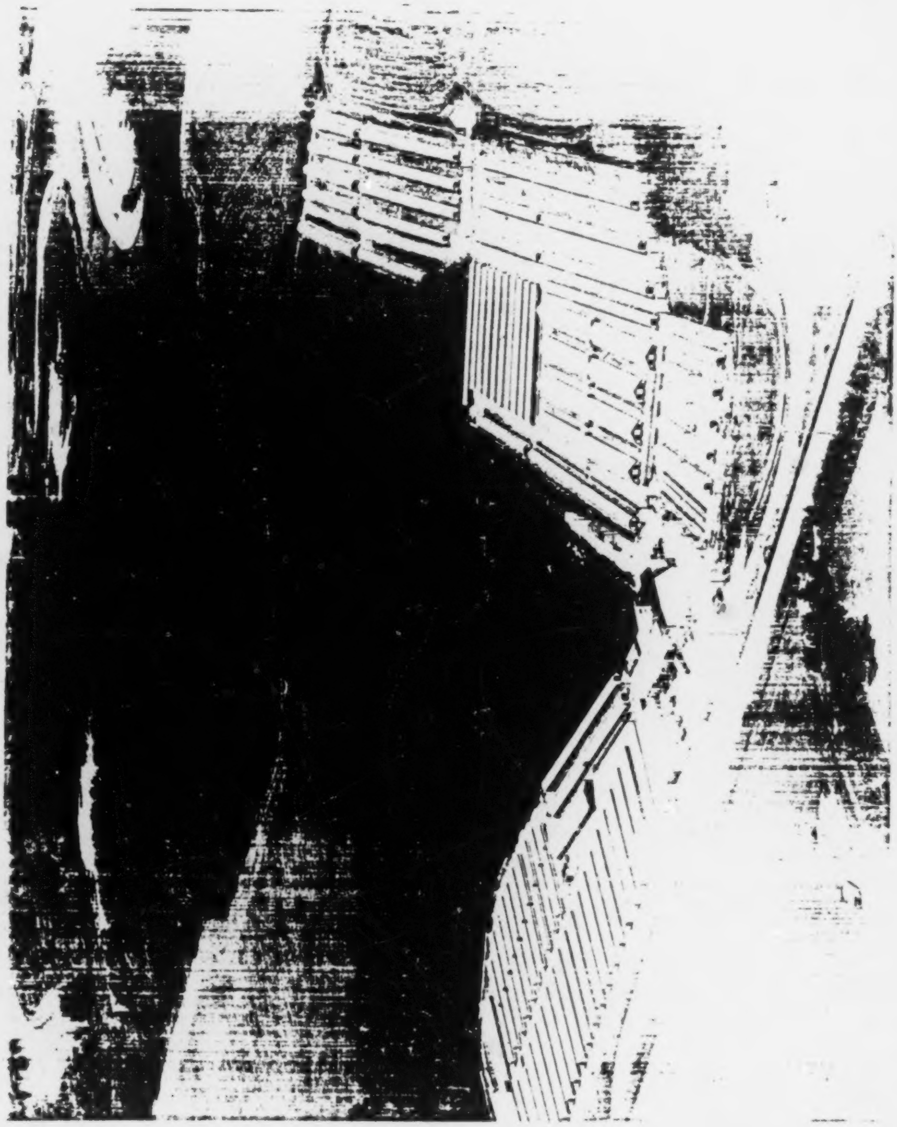
Ironically, Russia's ability to become the world's largest mink producer resulted from the sale by Americans of mink breeding stock to the Russians. On the other hand, Russia generates significant amounts of foreign exchange, primarily from the United States, upon the sale of its sable pelts, as to which it enjoys an absolute monopoly in the world market. Indeed, efforts by American fur producers to secure Russian sable breeding stock have been vigorously resisted. In short, Russia does not need the American market for its mink and fox furskins, and its entry into same would be accompanied by a competitive advantage totally insuperable for American producers.

V. CONCLUSIONS.

Fur farming constitutes an important member of America's agricultural economy. However, the size and economic stability of this industry has been substantially reduced and weakened by the free importation of low cost mink and fox furskins from Scandinavia and other free world sources. High costs of production and the strength of the American dollar have restricted the ability of American fur producers to successfully compete in world markets, most particularly in the domestic market where foreign-source furs are considered equally desirable. Russia, the largest fur producer in the world, has the potential to eliminate the domestic market from access by U.S. fur producers. Opening the U.S. market to importation of cheap Russian furskins means the end of U.S. fur farming.

* * * *

[This memorandum setting forth the facts concerning the likely impact of S.1809 upon the U.S. fur farming industry has been prepared and distributed by the National Board of Fur Farm Organizations, INc., 450 North Sunny Slope Road, Suite 120, Brookfield, Wisconsin 53005, telephone No. (414) 786-4242, which is solely responsible for its content and which reserves all rights in and to same.]



Senator DANFORTH. Mr. Vargo, your position is that the Secretary of Commerce committed himself to this in talks with the Soviets. Is that right?

Mr. VARGO. Mr. Chairman, it is broader than that. The President, the Secretary of State, and the Secretary of Commerce—the entire administration, in fact—reviewed the steps that we could take with the Soviet Union before Secretary Baldridge went over there.

Senator DANFORTH. What are we getting for this? What are we getting from the Soviets?

Mr. VARGO. The Soviets removed a very formidable trade barrier. The Soviets had instructed their foreign trade organizations not to look favorably on American firms' offers to sell machinery and equipment to the Soviet Union. And they agreed to remove that. Since that time, American companies have reported a very sharp change, and our sales are up 3½ times.

Senator DANFORTH. You think if we renege on this, then we are going to lose a lot of sales?

Mr. VARGO. Yes, sir, I do. And I think that the implications could be political as well as economic.

Senator DANFORTH. Well, we hear that so often from the administration. That is my concern with the administration. Our trade representative makes a comment questioning the Japanese, and he gets a call from Admiral Poindexter in Tokyo telling him to pipe down. I am not too impressed with all these foreign policies.

It seems to me that the basic position of the administration is that trade comes last and foreign policy concerns always preempt them. But just looking at the trade situation and only the trade situation for a moment, do you believe that this has trade implications and that we are going to lose sales to the Soviet Union if we renege on a commitment that was made by our administration in talks with the Soviets?

Mr. VARGO. Yes, Mr. Chairman, I do.

Senator DANFORTH. All right. Mr. Perrin, why wouldn't you be protected by the fact that the Soviets don't have most-favored-nation status and therefore are subject to very high tariffs, whether or not they can export their furs to the United States?

Mr. PERRIN. I guess I don't have that much faith in what is going on. I think if you open the door a little bit like that, why, it is a matter of time until you are letting them bring all the mink in here that they want.

Senator DANFORTH. But they are subject to a very high tariff?

Mr. PERRIN. I believe it is a low tariff. I believe this would be a low tariff. In fact, I just found out——

Senator DANFORTH. What is your answer to that, Mr. Vargo? It is a high tariff, isn't it?

Mr. VARGO. It is both. Undressed furskins can come in at a zero duty rate under either column 1 or column 2. Dressed furskins under column 2 would have a 25- to 30-percent tariff for the Soviet Union, as opposed to about 3 percent for the rest of the world.

Senator DANFORTH. So, your concern, Mr. Perrin, is about the undressed furs?

Mr. PERRIN. Yes, sir.

Senator **Danforth**. You are not concerned about dressed furs, but you are concerned about undressed furs?

Mr. **Perrin**. I am, but the dressed furs that he is speaking about are the Russian sables, which we don't produce in the United States, and we can't produce in the United States.

Senator **Danforth**. Like the undressed furs? I don't know what an undressed fur is; but whatever they are, you are concerned about them?

Mr. **Perrin**. Yes, sir.

Senator **Danforth**. Yes, so, therefore, they are going to come flooding in, you think, with zero tariff?

Mr. **Perrin**. If they produce 15 million mink and the State pays for that, how can the American farmer compete with that?

Senator **Danforth**. How can he, Mr. Vargo?

Mr. **Perrin**. How can I?

Mr. **Vargo**. Mr. Chairman, the answer to that is that the Soviets don't have a sales force going around the world selling these furskins. They sell their furskins in auctions in Leningrad and London at world market prices. What is happening now is that the United States is buying more Scandinavian furskins now than we might otherwise be buying; and if the Soviet Union were able to sell its furs to the United States, we might see more Soviet furskins coming to the United States, but fewer Scandinavian and other skins. The Soviets would find it difficult to compete with United States mink furskins, which are undeniably the best quality in the world.

Senator **Danforth**. Are the Soviet furs radioactive?

Mr. **Vargo**. We have looked into that, and there are no Soviet mink ranches in the area near Chernobyl. They are all further north, but both that part of the Soviet Union and Scandinavia have been subject to some fallout. However, I am told by FDA, which is responsible for the task force to ensure the nonradioactivity of our imports, that with furskins there is no danger.

Senator **Danforth**. All right. Thank you. Gentlemen, thank you both very much for your testimony.

Next, we have S. 1981: Gerald Malia, on behalf of the American Ship Building Co.; and Myron Nordquist, on behalf of Korea Wonyang Fisheries Co. Mr. Malia.

STATEMENT OF GERALD A. MALIA, PARTNER, RAGAN & MASON, WASHINGTON, DC; ON BEHALF OF THE AMERICAN SHIP BUILDING CO.

Mr. **Malia**. Mr. Chairman, my name is Gerald Malia. I am a partner in the law firm of Ragan & Mason here in Washington, and we represent the American Ship Building Co.

I will very briefly summarize our prepared statement. The American Ship Building Co. strongly supports this legislation to impose a duty on surimi imported into the United States. American Ship's Tampa Shipyard is one of the newest and most efficient in the world. The company recently invested over $60 million in new shipbuilding facilities and have provided substantial new employment in the Tampa area. It is American Ship's intention to go into the surimi business and to construct new vessels at the Tampa shipyard. They have already invested over $500,000 in this project.

American Ship is considering the construction of several new vessels to enter the business of catching and processing Alaska pollock into surimi and the sale thereof to the export market and the United States market. American Ship strongly supports the 6.5-percent tariff on imports of surimi into the United States from foreign sources because there are import tariffs and quotas on the sale of United States surimi into those countries, that is Japan. We do not believe this bill is protectionist.

It simply responds to a situation that brings equal treatment to surimi. I would like to add that Senator Murkowski earlier in his statement made two modifications, both of which we also support. One is to modify the bill to 6 percent, which accounts for the exact current Japanese tariff rate, and also the Senator would modify the bill to have a 1-year delay in the effectiveness of this legislation which we think should solve the concerns of everyone else.

Thank you, sir.

Senator Danforth. Thank you, sir. Mr. Nordquist.

[The prepared written testimony of Mr. Malia follows:]

STATEMENT
ON BEHALF
OF
THE AMERICAN SHIP BUILDING COMPANY

BY

GERALD A. MALIA
RAGAN & MASON
WASHINGTON, D.C.

TO THE

INTERNATIONAL TRADE SUBCOMMITTEE
OF THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

ON

S. 1981

WASHINGTON, D.C.
MAY 8, 1986

Mr. Chairman, Members of the Subcommittee:

I am Gerald A. Malia, a partner in the firm of Ragan & Mason, Washington, D.C. I am appearing on behalf of The American Ship Building Company, Tampa, Florida.

We appreciate the opportunity to appear today to present American Ship's views on this important legislation.

The American Ship Building Company strongly supports this legislation to impose a 6.5 percent duty on surimi imported into the United States.

Mr. Chairman, we hope that our comments on S. 1981 will be of use to the Subcommittee in its efforts to finalize this measure and to achieve the realization of this important legislation.

On April 23, 1986, the Company submitted a letter to Senator Danforth in support of the bill. A copy of that letter is attached to this statement.

The Tampa facilities of The American Ship Building Company have a modern, newly-constructed yard engaged in the construction, conversion and repair of vessels. During recent years American Ship has invested over $60,000,000 in new facilities in Florida for building, converting and repairing vessels.

It is American Ship's intention to go into the surimi business and to construct new vessels at the Tampa Shipyard. We have already invested over $500,000 in this project. This investment has included such activity as naval architects' fees and other expenses for initial vessel design, and, expenses for business trips to Japan to explore business prospects and to study the Japanese approach.

Specifically, American Ship is considering the construction of several new vessels to enter in the business of catching and processing Alaska Pollock into Surimi and the sale thereof to the export market and U.S. market.

American Ship strongly supports the 6.5 percent tariff on imports of surimi into the U.S. from foreign sources, because there are import tariffs and quotas on the sale of U.S. surimi into those countries (i.e. Japan).

We do not believe this bill is "protectionist". It simply *responds* to a situation and brings *equal* treatment to surimi.

I appreciate the opportunity to appear before you today to present our views on this bill. I will be happy to answer any questions you might have.

Thank you.

THE AMERICAN SHIP BUILDING COMPANY

ECUTIVE OFFICES

April 23, 1986

Honorable John C. Danforth, Chairman
Subcommittee on International Trade
Committee on Finance
United States Senate

Dear Mr. Chairman:

Your Subcommittee is presently scheduled to hold a hearing on May 5 on several tariff bills. One of the bills before your Subcommittee is S.1981, introduced by Senator Frank Murkowski and cosponsored by Senators Stevens, Heinz, Grassley, and McClure, to impose a 6.5 percent tariff on surimi imported into the United States. Our company supports this legislation for many of the same reasons articulated by Senator Murkowski in his introductory remarks on December 18, 1985.

We are engaged in developing a program to introduce an American competitor into the surimi market. Current projections show surimi to have a very substantial market potential in the United States. Japan is presently both one of the world's largest consumers as well as producers of surimi. The Japanese surimi industry is thus much more well-established than is the American industry. It is clear that the Japanese surimi industry finds the American market an attractive opportunity for expansion.

Japan now levies a 6.5 percent tariff on surimi imported into that country by non-Japanese operators. It creates a sharp imbalance in the competitive position of U.S. and Japanese interests. The proposed legislation would rectify this imbalance by putting Japanese interests in the same position relative to the American market as American interests are in with regard to the Japanese market.

Because S.1981 would restore equality of competitive opportunity, we urge that it be given favorable consideration by the Subcommittee so that it may be enacted at the earliest practicable date.

Sincerely,

H. Allen Fernstrom

H. Allen Fernstrom
President

SUITE 420 • HILLSBORO BUILDING • 512 FLORIDA AVENUE • TAMPA, FLORIDA 33601

STATEMENT OF MYRON H. NORDQUIST, PARTNER, KELLEY, DRYE & WARREN, WASHINGTON, DC; ON BEHALF OF KOREA WONYANG FISHERIES CO., LTD.

Mr. **Nordquist**. Thank you, Mr. Chairman. I represent the owner of a Korean-flag processing mother ship that buys fish from American fisherman to make surimi sold into the United States. The problem with S. 1981 is that it is aimed at the Japanese, but it hits United States fishermen and the owners of the very large Korean floating factory ships that compete with the Japanese. I really have just two points.

The first is that S. 1981 is intended to protect two small shore-based surimi facilities in Alaska and perhaps a few small United States-flag vessels that are still on the drawing boards. Many experts question the economics of very small vessels; but in any event, there is a much larger existing American surimi industry that is hurt by S. 1981.

Shore-based surimi sells for approximately one-half the price of surimi produced at sea. The reason is that the fish taken off the grounds are fresh. Moreover, the larger vessels that are able to stay at sea under the very demanding conditions in the Bering Sea with labor that is willing to work under those kind of adverse conditions create very favorable economics. Therefore, the problems that the United States shore-based producers and small processing vessel owners have is not due to the tariff in Japan; but it is due to either the inherent production of lower quality products on shore or due to the more expensive products produced by small vessels.

Thus, S. 1981 does not put surimi producers in America on an equal footing with the Japanese.

The second point is that, by far the greatest American involvement in surimi production is through United States fishermen selling their fish to foreign flag mother ships. S. 1981 unfortunately does not distinguish between fish caught by Americans and fish caught by foreigners. An import duty will either increase the price of the surimi that must be paid by American consumers, thereby putting a chilling effect on a promising new, emerging industry, or—which is more likely—reduce the price paid to the primary producer which in most cases are United States fishermen. Therefore, S. 1981 sends the wrong message to Japan.

We welcome Senator Murkowski's thoughtful amendments offered today; but respectfully request that further refinements are needed. We hope that the subcommittee will remain open to amendments that will help all segments of the United States surimi industry.

Thank you.

[The prepared written testimony of Mr. Nordquist follows:]

Testimony of
Myron H. Nordquist
Kelley Drye & Warren

before

International Trade Sub-Committee
Senate Finance Committee

May 8, 1986

Mr. Chairman:

It is a pleasure to testify on S. 1981. My name is Myron H. Nordquist and I am a partner in the law firm of Kelley Drye & Warren. We represent Korea Wonyang Fisheries Co., Ltd. ("KWF"), one of Korea's largest fishing companies.

KWF operates a 5,000 ton processing vessel, the Kyung Yang Ho, that produces high quality surimi from Alaska pollock purchased from U.S. fishermen in the 200-mile zone off Alaska. KWF is the only non-Japanese firm producing at-sea large amounts of surimi in joint ventures with American vessels.

KWF opposes the provision in S. 1981 that would impose a 6 1/2% import tax on surimi. This tariff is aimed at Japan but instead penalizes a fledging U.S. fishing industry. It does not come to grips with any of the real reasons why American surimi operations are not competitive on the world market.

After centuries of experience, Asian surimi-makers have learned that the best quality (SA grade) surimi can only be produced at-sea by large surimi processing vessels. SA grade surimi, which commands approximately twice the price of surimi that is produced on shore, is made from fresh fish not more than 24 hours old. To secure a year round supply, large, self-contained motherships able to stay with the seasonal fish movements are needed. There is no fleet of U.S. flag surimi processing vessels since American shipyards cannot construct large vessels competitively.

Accordingly, the typical at-sea surimi operation involves U.S. harvesting vessels supplying the Alaska pollock to foreign flag surimi processing vessels. Because of the restrictive interpretation given by the U.S. Customs Service, this surimi is treated as if it were foreign, thereby triggering a duty under S. 1981.

The duty in S. 1981 would be imposed even though the fish for the surimi would be caught by Americans in the American fishery zone, would be owned by Americans and would be sold to Americans in America. Under S. 1981, there would be no incentive not to continue to have the fish caught by foreigners, owned by foreigners and sold by foreigners through the Tokyo fish market back to the United States.

S. 1981 could be used to encourage a new U.S. industry if no duty were imposed on surimi made from fish caught by Americans. As written, the proposed legislation appears to be designed to protect just three shore-based surimi factories in Alaska - mostly foreign owned - that cannot produce in quantity the high quality SA grade surimi Japan wants most.

Moreover, S. 1981 does not deal with any of the real problems facing the U.S. fishing industry. For example, what is the sense of Jones Act legislation that "protects" a non-existent ship-building industry? In other words, why must large vessels be built in the United States to fish or process in U. S. waters? This restriction simply results in large foreign vessels continuing to fish and process in the weather-punishing waters off Alaska because Americans cannot afford large vessels built in U.S. shipyards.

Mr. Chairman, Congressional efforts to help U.S. fishermen and our domestic fish processors deserve support. S. 1981 is supposed to retaliate against Japan but instead the bill hurts many U.S. fishermen who sell fish to their only market: large, at-sea foreign processing vessels. The duty in S. 1981 is also imposed on all surimi - whether produced at-sea or onshore and whether the product comes from fish harvested by foreigners or Americans.

I respectfully suggest that the sweeping approach of S. 1981 be abandoned for a more refined treatment. The Sub-Committee should hold-off imposing a duty on surimi until more thoughtful consideration can be given about how to help all segments of the U.S. fishing and processing industry.

Thank you.

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Senator **Danforth**. It seems to me that Senator Murkowski has made a reasonable suggestion for a compromise, wouldn't you think, Mr. Nordquist? In other words, he takes the position that we shouldn't do nothing. This is an intolerable situation. The Japanese feel free to impose tariffs on what we want to ship them, and we have an open market for them; eventually, you have to act.

You can't take it on the chops forever. So, he says, let's wait a year. Let's pass the bill and have a 1-year moratorium and see what the Japanese do. Why isn't that a reasonable approach?

Mr. **Nordquist**. It would be if it got at the problem that he has identified. It gets at that, but more. If it were confined to just the impact on the Japanese, that would be a very acceptable result; but unfortunately, the problem is more complex. And the complexity arises from the fact that the American fishermen are providing fish at sea to foreign processors; and if the bill stands as it is, there is no incentive for the Japanese not to take fish from their own fishermen.

The distinction that would be useful would be if the committee were to see a difference between fish caught by Americans and fish caught by foreigners; or if the committee were to tackle some of the real problems which have to do with the fact that large vessels are too expensive to build in the United States. Then, we could really get competitive.

Senator **Danforth**. I think there are a lot of problems, but it seems to me to be outrageous that there is an open market in the United States for the Japanese product and a 6-percent tariff in Japan on the American product. I don't see any disadvantage to Americans from saying that we are not going to tolerate that situation.

Mr. **Nordquist**. I understand the Senator's position, but as I say, it is one thing to retaliate against the Japanese; it is quite another when the same retaliation, has adverse effects on American fishermen, and on Koreans.

Senator **Danforth**. Do you see how it has an adverse effect on American fishermen, and on Korea, Mr. Malia?

Mr. **Malia**. No, Mr. Chairman, we do not. And the vessels that American Ship is intending to build would be large vessels, and they would serve the American fishermen in the waters off of Alaska.

Senator **Danforth**. Gentlemen, thank you very much.

Mr. **Nordquist**. Thank you, sir.

Senator **Danforth**. Next, we have S. 1987: Mr. Irwin P. Altschuler on behalf of Industria del Alcali.

Mr. Altschuler.

STATEMENT OF IRWIN P. ALTSCHULER, PARTNER, BROWNSTEIN, ZEIDMAN & SCHOMER, WASHINGTON, DC; ON BEHALF OF INDUSTRIA DEL ALCALI

Mr. **Altschuler**. Thank you, Mr. Chairman. For the record, I am Irwin Altschuler of Brownstein, Zeidman, and Schomer. With me to my left is Denise Depursio of our firm. We do represent Industria del Alcali of Mexico—Monterey, Monterey, Mexico—a Mexican producer, and exporter of sodium bicarbonate to the United States.

We are here on behalf of Industria del Alcali, to oppose S. 1987, which would impose 20 percent ad valorem duties on United States imports of sodium bicarbonate.

Mr. Chairman, we are here because we, and our client believe that, simply stated, there is no problem that requires legislation, in the form of 20-percent duties to protect the United States industry. The United States industry over the years has been dominated by one company, Church and Dwight, which markets its food grade sodium bicarbonate under the trade name Arm and Hammer, with which we are all familiar. Church and Dwight also competes in all the other segments: Animal feed grades, industrial grades, and pharmaceutical grades.

They have been dominating this market for years, and in fact, it was not until 1981 that there was even another United States producer of sodium bicarbonate.

At the present time, it is our understanding that Church and Dwight's production capacity, accounts for over 70 percent of total United States producers' capacity for sodium bicarbonate.

Over the years, Church and Dwight has done exceedingly well, from this position, as a monopolist in the United States market. At the same time that Church and Dwight had no competition, it saw that from the years 1975 to 1984, that U.S. demand for sodium bicarbonate was increasing annually. In 1985, we note that demand in the United States for sodium bicarbonate, appears to have experienced a moderate downturn, which we believe is of a temporary nature. A number of substitute products came on the market for sodium bicarbonate in animal feed grades, for example. At the same time, however, new uses for sodium bicarbonate are being developed, such as cleanup for acid rain and other types of similar cleanup purposes.

We think, in short, that the United States industry, and the United States market, and demand for sodium bicarbonate is strong and will continue to be so in the future.

At the same time, we believe that, if Church and Dwight is experiencing any difficulty in commanding prices for its product, it is not surprising, given the fact that up until very recently, there was no competition and it was able to set its prices at quite high levels. At the same time that the United States industry, Mr. Chairman, is doing very well, we believe that imports are a very minor factor in the United States market. In 1984, United States imports accounted for about 6 percent of the United States consumption of sodium bicarbonate. In 1985, imports were down 8 percent. Imports from Mexico were down 15 percent. We note that, while imports do not seem to be a problem in this case, and we really see that Church and Dwight is not experiencing any serious difficulty, at the same time given the severe economic crisis in Mexico, the imports, even though they amount to only several million dollars, or less per year of sodium bicarbonate from Mexico, is important to Mexico in general, and to our client in particular.

Our client imports machinery and other equipment, that they use in the production of sodium bicarbonate. They import that equipment from the United States. In order to be able to import that equipment, which they use for production that is sold both in Mexico, and in the United States, they simply must be able to continue their moderate level of exports to the United States, to earn the foreign exchange that is necessary.

That concludes our summary, Mr. Chairman. Thank you.

Senator DANFORTH. Thank you, sir. Mexico has a tariff, doesn't it, on sodium bicarbonate? Isn't it 40 percent?

Mr. ALTSCHULER. I would have to make sure. Mexico, I am sure, does have a tariff at this point. I think it is important to note that Mexico is moving away from import permits, and other types of import controls to tariffs, which is something that I know that the United States Government has sought, and that Mexico is doing.

Senator DANFORTH. Why wouldn't it be fair if the United States set our tariff the same as Mexico's?

Mr. ALTSCHULER. I think that it is hardly fair, Mr. Chairman, to expect that Mexico's tariff structure at this point in time, be identical to that in the United States, given the economic development curves of both countries. I think that Mexico's current negotiations for accession to the GATT, the topic of duties, duty rates, and the binding of duty rates, is certainly going to come up. Mexico has already taken steps toward using tariffs, and committing to keep tariff levels set or bound; and the fact is that this duty rate, which is now zero on sodium bicarbonate, has been zero since the enactment of the Tariff Act of 1930, and in the GATT process has become a bound tariff rate.

And with Mexico joining the GATT and considering that imports of sodium bicarbonate come into the United States from West Germany, and the United Kingdom, I think that modification of this tariff at this point would certainly invite retaliation of both current and prospective GATT members, such as Mexico.

Senator DANFORTH. Do you think Mexico would retaliate?

Mr. ALTSCHULER. Well, I don't know. I am certainly not in a position to speak for the Mexican Government.

Senator DANFORTH. What would this bill provide? What kind of a tariff?

Mr. ALTSCHULER. Twenty percent where currently there is no duty and has not been since 1930.

Senator DANFORTH. So, you think Mexico would take the position that a 20-percent tariff imposed by the United States is unfair and that they should therefore retaliate by raising their tariff to 60 percent?

Mr. ALTSCHULER. Really, again, I am not in a position to comment. I represent the private sector producer which is trying to export relatively low levels to the United States. What the Mexican Government would do, I don't know.

I don't mean to suggest that they would retaliate. I don't think that is in the nature of the way the trade relationship between Mexico and the United States is running these days. I think there is marked improvement in that relationship, and we would certainly hope that would continue.

My only point is really in response to your initial question, and that is that I don't believe it is fair to think that tariff rates on products for the United States and for Mexico should be the same at this point in time.

Senator DANFORTH. All right. Thank you very much, sir.

Mr. ALTSCHULER. Thank you.

Senator DANFORTH. Next, we have S. 2104: William Grundy, representing the Work Glove Manufacturers Association; and Gunter von Conrad, on behalf of the Magid Glove and Safety Manufacturing Co. Mr. Grundy.

[The prepared written testimony of Mr. Altschuler follows:]

SUBCOMMITTEE ON TRADE
COMMITTEE ON FINANCE
UNITED STATES SENATE

COMMENTS ON S. 1987
FILED ON BEHALF OF
INDUSTRIA DEL ALCALI
MONTERREY, N.L., MEXICO

Of Counsel:
Irwin P. Altschuler
Steven P. Kersner
Denise T. DiPersio

Brownstein Zeidman and Schomer
1401 New York Avenue, N.W.
Suite 900
Washington, D.C. 20005
(202) 879-5700

April 21, 1986

I. INTRODUCTION

In accordance with the schedule established by the Committee on Finance, Industria del Alcali, a Mexican manufacturer and exporter to the United States of sodium bicarbonate, submits its comments in opposition to S. 1987, a bill which would amend the Tariff Schedules of the United States (TSUS) and levy 20 percent *ad valorem* duties on imports of sodium bicarbonate. For the reasons stated hereinbelow, we submit that the enactment of this legislation would not be in the best interest of the United States. Further, S. 1987 would not be particularly helpful to the domestic industry producing sodium bicarbonate, but would have an extremely adverse effect on producers of such product in Mexico.

Initially, we note that the enactment of this bill into law would be a violation of U.S. obligations under the General Agreement on Tariffs and Trade (GATT), and subject the United States to possible retaliation by other GATT member countries. Moreover, imports are not the cause of the alleged problems currently being experienced by the domestic industry. Indeed, imports of sodium bicarbonate fill only a small percentage of total U.S. demand for the product. Thus, passage of this legislation would not help domestic manufacturers of sodium bicarbonate. Furthermore, we note the introduction of this legislation comes at a time when Mexico has already reduced its tariff and non-tariff barriers to trade, and is negotiating to improve its trade relations with the United States and the rest of the world.

Passage of this legislation, when viewed in this context, would be inconsistent with the policy the United States has been encouraging the Government of Mexico to adopt during the current round of trade negotiations between the two countries. Further, given the current condition of the Mexican economy, any action by the United States which limits Mexico's ability to export to the United States serves only to irritate U.S.-Mexico trade relations. Accordingly, Industria del Alcali respectfully requests that this Committee decline to send S. 1987 to the full Senate for a vote.

A. S. 1987

The text of S. 1987 describes this legislation as a bill "to amend the Tariff Schedules of the United States in order to establish equitable duty rates for sodium bicarbonate." Specifically, this bill proposes that Item 420.72, TSUS (the tariff classification for sodium bicarbonate) be amended by striking out "free" everytime it appears and inserting in lieu thereof "20% ad val."

B. Interest of Industria Del Alcali

Industria del Alcali is a manufacturer of sodium bicarbonate with manufacturing facilities located in Mexico. Industria del Alcali also exports sodium bicarbonate to the United States. Therefore, as a manufacturer and exporter of sodium bicarbonate to the United States whose products would be subject to the increased rates of duty proposed in S. 1987, Industria del Alcali has a direct interest in this legislation. For the following reasons, Industria del Alcali opposes S. 1987 and requests that this Committee decline to send S. 1987 to the full Senate for a vote.

II. ENACTMENT OF S. 1987 WOULD VIOLATE U.S. OBLIGATIONS UNDER THE GATT

Imports of sodium bicarbonate have been free of customs duty since the enactment of the Tariff Act of 1930. 46 Stat. 681 (1931). Sodium bicarbonate was provided for in paragraph 1766 of that Act, as follows:

> PARA 1766. Sodium:
>
> Nitrate, crude or refined; sulphate, crude
> or crude salt cake, and niter cake;
> bicarbonate or baking soda. . . . FREE

At the conclusion of the Kennedy Round of GATT negotiations, the United States "bound" the tariff rate for sodium bicarbonate classifiable under Item 420.72, TSUS. (Geneva (1967) Protocol to the General Agreement on Tariffs and Trade, Schedule XX, 19 U.S.T. 1, T.I.A.S. 6789), Presidential Proclamation 3822 (December 16, 1967)). Article II.1(a) of the

GATT prohibits the United States from taking action which would increase the tariff rate above the "bound" rate.

Accordingly, should the United States Congress enact S. 1987, or any other legislation which would have the effect of imposing a tariff rate on imports of sodium bicarbonate, GATT contracting parties would be entitled to retaliate against the United States. As the import statistics attached herewith in Exhibit 1 illustrate, several GATT member countries, including the United Kingdom and West Germany, export sodium bicarbonate to the United States.

Because the free rate of duty for sodium bicarbonate is a bound rate, passage of S. 1987 would violate U.S. obligations under the GATT and invite retaliation by GATT member countries. Notwithstanding these considerations, however, the legislation should not be enacted because the U.S. sodium bicarbonate industry will not benefit from the passage of S. 1987.

III. THE U.S. SODIUM BICARBONATE INDUSTRY AND MARKET

Sodium bicarbonate is manufactured by treating a saturated solution of soda ash (sodium carbonate) with carbon dioxide. The sodium carbonate is charged into water with a rotary dissolver to make a saturated solution. The solution, after settling and cooling, is then pumped into the top of a carbonating tower. Carbon dioxide is then introduced into the bottom of the tower and held under pressure. The suspension of sodium bicarbonate formed is withdrawn, filtered and washed on a rotary dryer. The washed filter cask is dried and screened to various grades. Sodium bicarbonate is available in commercial feed, U.S.P. (United States Pharmaceutical) and reagent grades in a variety of grain sizes.

U.S.P. grade means that the product meets the minimal requirements of the U.S. Pharmaceutical Code. Food grade sodium bicarbonate is U.S.P. grade product mixed with other foods, nutrients, food additives, spices or compounds. Animal feed grade sodium bicarbonate is typical U.S.P. grade product which meets the requirements of the Food and Drug Administration's G.R.A.S. (Generally Regarded As Safe) list; this grade is usually coarse or unscreened sodium bicarbonate. Industrial grade sodium bicarbonate is a catch-all category. Usually U.S.P. quality, the particle sizes of industrial grade sodium bicarbonate range from very fine to coarser material.

Sales of sodium bicarbonate in the United States are generally divided into three categories: household-consumer, industrial, and animal feed. The household consumer segment is that part of production sold in small packages, generally referred to as baking soda, used in the home in bath and baking applications, for pH adjustments of swimming pools, and for deoderizing refrigerators, freezers, and carpets. Industrial applications include sodium bicarbonate sold in bags, sacks, bins or bulk for a wide range of food, beverage, pharmaceutical, chemical, fire extinguisher, textile, paper, leather and photographic chemical manufacturing. Feed grade sodium bicarbonate is used for beef and dairy cattle nutrition.

A. U.S. Producers

The U.S. sodium bicarbonate industry is dominated by one producer, Church & Dwight (C&D). C&D sells sodium bicarbonate to the U.S. household-consumer market under the trademarked product, Arm & Hammer Baking Soda. C&D also sells sodium bicarbonate to industrial customers. C&D markets its consumer products in the United States through grocery stores via a network of independent food brokers and public warehouses located throughout the country. C&D markets sodium bicarbonate for industrial and animal food uses through regional sales offices, manufacturer's representatives, and sales personnel of independent distributors. The other major producers of sodium bicarbonate in the United States are Kerr-McGee, Riverside Products, and Stauffer. Of the 417,000 tons of domestic capacity for sodium bicarbonate in 1986, the capacity of C&D's U.S. facilities account for 300,000 tons, or 72% of U.S. capacity. (*See* Exhibit 3, attached hereto).

B. The U.S. Market

From 1975-1984, U.S. demand for sodium bicarbonate grew steadily at the rate of 5.5% per year. In 1985, however, demand dropped due to several factors. Industrial uses for sodium bicarbonate fell sharply in 1985. In addition, demand in the home baking market dropped. The feed market was off as well because of the continuing effects of a U.S. government program to reduce dairy herds. Thus, it is clear that imports, which constituted only 6% of the market in 1985, have not been responsible for any poor performance by U.S. sodium bicarbonate producers. Indeed the reason why the U.S. industry feels that it needs U.S. tariff protection now, for the first time, relates to factors other than the presence of imported sodium bicarbonate in the U.S. market.

1. U.S. Capacity For Sodium Bicarbonate Exceeds Demand

Exhibit 2, attached hereto, shows that the entire U.S. installed capacity for sodium bicarbonate in 1985 was 317,000 tons, with 236,000 tons, or 74%, of such capacity accounted for by C&D's capacity in its U.S. facilities. As shown by Exhibit 2, C&D has accounted for a consistently higher share of U.S. installed capacity from 1981-1985 as a result of its own expansion and the fact that other companies with varying capacity levels have left and/or entered the market. Exhibit 2 clearly shows that C&D dominated the U.S. market in 1985. C&D has solidified its dominant position in 1986. (*See* Exhibit 3, attached hereto).

As discussed previously, sodium bicarbonate is used in many applications, from consumer to industrial to animal feed uses. However, there are other products which are substitutes for, and compete with, sodium bicarbonate. Sesquicarbonate, alkaten, and S-carb[1] are products which are sold for animal feed and industrial uses at prices below that of sodium bicarbonate.[2] These products contain a small amount of sodium bicarbonate and for that reason, have lower costs of production than sodium bicarbonate. The presence of these products in the U.S. market has caused price competition in the farm segment of the market and has displaced sodium bicarbonate in that market.

Exhibit 4 contains a breakdown of U.S. demand for sodium bicarbonate according to geographic areas, and shows the installed capacity for sodium bicarbonate and substitute products in each area. As shown in Exhibit 4, the combined U.S. capacity for sodium bicarbonate and substitute products exceeds U.S. demand by 100,000 tons. This same information is presented graphically in Exhibit 5, where the excess of capacity over demand is dramatically evident. It is not surprising that an industry with such over-capacity would be especially vulnerable to sudden changes in demand, such as occurred in 1985 with respect to sodium bicarbonate.

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[1] Sodium sesquicarbonate is a mixture of sodium carbonate with the buffer sodium bicarbonate. Alkaten is a low quality sesquicarbonate. S-carb is refined sesquicarbonate.

[2] These products are currently priced approximately 15% below the price for sodium bicarbonate. Industria del Alcali believes that these products are capable of underselling sodium bicarbonate by as much as 25%.

2. Sodium Bicarbonate Prices Are Excessive and Afford U.S. Producers High Profit Margins

In 1985, the price of sodium bicarbonate was an average $350/ton. The total cost of producing one ton of sodium bicarbonate ranges from $123 to $230. A well-managed plant should be able to produce sodium bicarbonate for less than $200 per ton. Allowing a reasonable return on investment, a ton of sodium bicarbonate should cost $240, F.O.B. plant. Why, then is the current price so high?

First, C&D, as the acknowledged dominant firm in the industry, continually raised sodium bicarbonate prices as it introduced new products, expanded existing product lines, built new plants, maintained good profit margins, and paid dividends to stockholders. C&D had no real competition until 1981 and did not fear a great loss of market share. (See Exhibit 2 for a graphic description of the industry from 1979-1985). Second, these price increases for sodium bicarbonate were possible because customers could pay the price or pass it along to their customers. In the food product, drug, antacid, and retail segments, sodium bicarbonate constitutes a relatively small percent of the cost of the final product. Thus, the price increases were absorbed without much difficulty. By contrast, the animal feed market is relatively competitive and susceptible to substitute products. Thus, sodium bicarbonate has only penetrated approximately 25% of the dairy herd market, for example.

Therefore, not only does the U.S. sodium bicarbonate industry have the capacity to more than meet the demand in the domestic market, these companies also have the ability to meet price competition from each other and substitute products. This industry is clearly not one in need of the protection afforded by the U.S. tariff system.

3. Imports Of Sodium Bicarbonate Play A Minor Role In The U.S. Market

Imports have historically played a minor role in the sodium bicarbonate market. Imports of sodium bicarbonate accounted for 6% of U.S. sales in 1984. Exhibit 1 shows that imports decreased in 1985 over 1984 levels by approximately 8%. Significantly, imports of sodium bicarbonate from Mexico have steadily declined, by approximately 2.5 million pounds (or 15%) from 1983 to 1985. As mentioned previously, the demand in the U.S. for sodium bicarbonate decreased in 1985 for several reasons. That the decline is unrelated to the level of imports of sodium bicarbonate from Mexico is apparent from the fact that Mexican imports of sodium bicarbonate have declined for the last three years.

It is clear that imports of sodium bicarbonate have a minimal effect on the U.S. market. Therefore, S. 1987, if enacted, will not aid domestic sodium bicarbonate producers.

4. New Markets For Sodium Bicarbonate

While the demand in traditional markets for sodium bicarbonate may be in flux, as suggested by events in 1985, long term prospects for this industry are bright. Current tests show that sodium bicarbonate is an effective product in removing sulfur dioxide from utility gas stacks, and demand could skyrocket if sodium bicarbonate technology is widely employed in flue gas desulfurization. Sodium bicarbonate may also be used to correct acidity levels in lakes affected by acid rain. Domestic sodium bicarbonate producers therefore have the opportunity to explore these new segments of the market.

By all accounts, the domestic industry is ready for this challenge. In 1983, C&D acquired exclusive rights to the "Gimenez process" that allows it to produce U.S.P. quality sodium bicarbonate in small, regional plants. Along with this acquisition, C&D received an option to purchase existing facilities in Venezuela and Argentina, as well as a major interest in Bicarbon Industriale Comercial Ltda. in Brazil, which owns the Brazilian rights to the Gimenez process and operates a plant there.

C. Conclusion

There is no question that the U.S. sodium bicarbonate industry is strong and that there exist new markets to explore. In such a situation, harnessing all resources to meet this challenge should be the aim of U.S. sodium bicarbonate producers. Nothing will be gained by erecting tariff barriers against a group of products with a minor role in the market.

IV. THE MEXICAN PERSPECTIVE

The U.S.-Mexican trade relationship has improved greatly over the past few years, and further improvement is expected in light of Mexico's increasing willingness to lower trade barriers and conform its trading policies more closely with those of other major western trading nations. Mexico's announcement that it intends to accede to the GATT, and the ongoing negotiations between the United States and Mexico to establish a bilateral framework agreement to cover trade relations between the two countries, are the latest manifestations of these efforts. However, Mexico's current economic crisis has made it increasingly dependant on its continued ability to export to the United States, and actions which interfere with Mexico's ability to do so, especially where such actions are violative of U.S. international obligations under the GATT (which the United States has for so long encouraged Mexico to join) cannot but become irritants to this improved atmosphere.

A. Mexican Producers

Industria del Alcali manufacturers sodium bicarbonate for industrial use in Mexico. Industria del Alcali also exports sodium bicarbonate to the United States for use as animal feed. These exports, which accounted for less than half of all exports in 1985, were clearly insufficient to have any impact on the U.S. market, but were very important to Industria del Alcali.

B. Mexico and the GATT

Although Mexico is not a member of the GATT, its application for GATT membership is currently under consideration by the GATT Working Group. By acceding to the GATT, Mexico will conform its international trading practices to reflect the provisions of the GATT. However, over the past few years Mexico has, even prior to its public announcement of its intent to accede to the GATT, undertaken, to the greatest extent economically and politically feasible, to bring its international trading regime into greater conformity with those trade regimes of other western trading nations and the GATT. This process has been affected by the fact that the Mexican economy, in greater and lesser degrees of crisis since 1982, and currently undergoing severe dislocation due to the dramatic decrease in the world price of oil over the past month (resulting in the need to further restrict its international debt commitments), places real limits on the pace (as opposed to an ability and/or willingness) at which Mexico will be able to better conform its current trading practices to the GATT.

Over the past two years, the Government of Mexico has moved away from its traditional import substitution policies by liberalizing its import regime and by encouraging increased trade and investment between the United States and Mexico. Included among the actions taken by the Mexican Government over the past year are the following actions:

1. the unilateral elimination of Mexico's major export subsidy program (CEDI);
2. an agreement with the United States to phase out all remaining export subsidies;
3. a net reduction in the cost of importing goods into Mexico by removing prior import license requirements on hundreds of product categories;
4. moving away from non-tariff barriers and towards the use of tariffs to regulate trade;
5. increasing the level of protection afforded to foreign owners of intellectual property; and
6. making a decision to join GATT, and declaring its intent to bring its international trading regime into greater conformity with those of other western trading nations.

Through these and other similar actions, Mexico has, to the degree allowed by its economy, attempted to bring its trading practices into greater conformity with the GATT.

Further, it is expected that this trend will accelerate once Mexico accedes to the General Agreement. However, the speed at which Mexico will be able to bring its trading practices into greater conformity with the GATT will be tempered by the condition of the Mexican economy, inasmuch as changing within a short period of time the trading practices which have been in place for years or decades, and which have formed a part of the environment under which Mexican businesses have operated for such periods of time, would surely impact an already severely beleaguered Mexican economy.

Therefore, legislation such as S. 1987, which would impose customs duties on a product which has been duty-free for over fifty years, only serves to hamper and discourage the efforts of the Mexican Government and Mexican businesses to continue to conform trading practices in Mexico to the GATT.

C. U.S.-Mexico Economic Relations

The condition of the Mexican economy has always been of keen interest and importance to the United States. Besides the potential political ramifications of a deteriorating Mexican economy on both internal Mexican political stability and relations between the two countries, it must also be emphasized that the two economies are closely intertwined. Mexico is the third largest market for U.S. exports -- only Canada and Japan provide larger export markets for U.S. businesses. However, what is not always realized in the United States is the fact that Mexico's ability to import goods from the United States is closely tied to its ability to obtain access to U.S. markets for its exports, to obtain needed foreign exchange to purchase U.S. goods. Over the past few years, it has been estimated that over 50 percent of the foreign currency which Mexico derives from its exports has been devoted to the purchase of U.S. goods.

Indeed, over the past few years, reports have begun to appear in the press describing the manner in which the U.S. economy overall, and individual U.S. businesses, have suffered as a result of the Mexican economic crisis, which has resulted in a sharp drop in Mexico's imports from the United States due to a lack of foreign exchange. Since Mexico's current economic crisis began in 1982, it has been forced to severely cut back the quantity of imports from the United States, resulting not only in harm to U.S. businesses, particularly along the border area, but also the loss of thousands of U.S. jobs for the U.S. economy. It has been reported in a U.S. Department of Commerce study that approximately 25,200 U.S. jobs were generated by each billion dollars of exports. Therefore, for every $10 billion decline in U.S. exports to Mexico, over one-quarter million U.S. jobs are lost. It has also been estimated by Wharton Econometrics Forecasting Associates that the current Latin American debt crisis (of which Mexico has been a major participant) has cost the United States economy approximately $128 billion due to lost exports in the last three years.

Mexico's foreign debt currently stands at approximately $96.4 billion. A large portion of this debt is owed to U.S. banks and other commercial interests. Mexico's ability to repay this debt is largely dependent upon its ability to export. Closing access to the U.S. market for Mexican exporters cannot help but exacerbate the Mexican debt repayment problems. These problems have worsened in 1985, in large part due to the decline in Mexico's exports to the United States. For the first half of 1985, Mexico's exports to the United States declined 9.5 percent over exports for the same period in 1984, representing a foreign exchange loss of $705.3 million. Not only have Mexico's revenues from exports of petroleum declined, but revenue from such exports have failed to meet even modified projections. Even prior to the recent, dramatic drop in world oil prices, it was estimated that Mexico would export approximately $14 billion worth of petroleum this year, about $2 billion less than originally projected. Further, the Government's hope for the future, nonpetroleum exports, are also not performing up to projections. It was originally estimated that in 1985 Mexico's nonpetroleum exports (mostly manufactured goods) would account for some $8.6 billion in foreign exchange. Figures for the first six months of 1985 show that nonpetroleum exports amounted to only $3.5 billion, indicating that original projections will not be met. Mexico's exports of manufactured goods, after increasing by 19 percent in 1984 over 1983, decreased 10 percent during 1985, in large part accounting for the failure to meet original projections.

This foreign currency shortfall only serves to exacerbate Mexico's foreign debt repayment problem. Mexico's foreign debt, as previously noted, stands at approximately $96.4 billion. Interest payments alone in 1985 were estimated to be close to $10 billion. These interest payments, in and of themselves, siphon off a great deal of Mexico's available foreign currency.

In order to rectify the situation, Mexico recently negotiated a debt restructuring agreement with a consortium of its principal commercial debtors (a large portion of which are U.S. banks and other lending institutions) restructuring $48.7 billion in debt, stretching out Mexico's repayment schedule through 1998. While this may somewhat alleviate Mexico's debt repayment problem, Mexico, due to its current shortfall in foreign currency, is seeking an additional $8 or 9 billion in fresh funds from commercial lenders, while at the same time seeking some $500 million from the World Bank.

Thus, although Mexico is attempting to restructure its foreign debt to give it a more favorable repayment schedule, at the same time it needs to increase its overall debt in order to obtain the necessary foreign exchange to keep its economy running. Under such circumstances, access to the U.S. marketplace for Mexican manufacturers is essential. S. 1987, if enacted, would have the effect of restricting such access for sodium bicarbonate from Mexico.

V. CONCLUSION

In addition to jeopardizing the United States' relationship with the GATT and its member countries, S. 1987 carries an additional threat to U.S. foreign policy. If enacted, this legislation would most likely become an irritant in the economic relations between the United States and Mexico. Given the fact that the domestic industry would derive little benefit from this legislation, its negative impact would outweigh the short run gain of increased tariff revenues for the United States.

For the reasons stated hereinabove, Industria del Alcali opposes S. 1987 and requests that the Committee not favorably report the bill to the full House.

On behalf of our client, we appreciate the opportunity to present the views expressed herein.

Respectfully submitted,

Irwin P. Altschuler
Steven P. Kersner
Denise T. DiPersio

Brownstein Zeidman and Schomer
1401 New York Avenue, N.W.
Suite 900
Washington, D.C. 20005
(202) 879-5700

Attorneys for Industria del Alcali

April 21, 1982

Table 4.--Sodium bicarbonate: U.S. imports for consumption, by principal sources, 1981-85

Source	1981	1982	1983	1984	1985
	Quantity (1,000 pounds)				
Mexico	2,258	7,347	16,740	14,339	14,277
Fr Germ	1/	476	7,913	10,441	11,179
U King	4,183	3,333	4,766	5,440	3,228
China t	0	0	0	901	1,271
Canada	4	326	188	45	233
France	0	388	682	476	329
Japan	0	0	5	1	188
Nethlds	0	0	280	190	278
Belgium	0	40	159	1,003	198
Romania	0	95	666	579	309
All other	15	2,026	1,836	1,339	579
Total	6,460	15,031	33,235	34,755	32,068
	Value (1,000 dollars)				
Mexico	289	743	2,055	1,636	1,541
Fr Germ	1	38	628	730	814
U King	375	309	486	584	242
China t	-	-	-	102	119
Canada	3	47	27	9	40
France	-	53	65	33	31
Japan	-	-	5	2	26
Nethlds	-	-	25	12	22
Belgium	-	13	12	77	19
Romania	-	22	48	41	18
All other	13	134	171	188	45
Total	680	1,360	3,522	3,413	2,918
	Unit value (per pound)				
Mexico	$0.13	$0.10	$0.12	$0.11	$0.11
Fr Germ	1.76	0.08	0.08	0.07	0.07
U King	0.09	0.09	0.10	0.11	0.08
China t	-	-	-	0.11	0.09
Canada	0.64	0.14	0.15	0.20	0.17
France	-	0.14	0.10	0.07	0.09
Japan	-	-	1.02	1.89	0.14
Nethlds	-	-	0.09	0.06	0.08
Belgium	-	0.34	0.07	0.08	0.10
Romania	-	0.24	0.07	0.07	0.06
All other	0.82	0.07	0.09	0.14	0.08
Average	0.11	0.10	0.11	0.10	0.09

1/ Less than 500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

SODIUM BICARBONATE

U.S.A.

PRODUCERS AND INSTALLED CAPACITY

CORPORATION	1979	1980	1981	1982	1983	1984	1985
CHURCH & DWIGHT							
WYOMING	150	150	150	150	159	159	159
OLD FORT	-	-	64	64	77	77	77
SYRACUSE	90						
STAUFFER	-	-	45	45	45	45	45
RIVERSIDE	-	-	-	-	-	20	36
ALLIED	-	90	90	90	90	90	-
BASF							
WYANDOTTE	64	64	-	-	-	-	-
TOTAL E.U.A.	304	304	349	349	371	391	317

SUMMARY OF IMPORTANT EVENTS IN THE INDUSTRY

1980 - STAUFFER FINISHES PLANT IN CHICAGO.
1981 - BASF CLOSES PLANT IN WYANDOTTE, MICHIGAN.
C+D STARTS OPERATION AT PLANT IN OLD FORT, INITIAL CAPACITY 64,000 TONS/YEAR.
ALLIED ENTERS THE MARKET WHEN CEASE PRODUCTION OF BICARBONATE FOR C+D IN - SYRACUSE, U.S.A. CAPACITY DOES NOT MODIFY THIS YEAR.
1983 - C+D INCREASES CAPACITY IN OLD FORT AND WYOMING BY 22,000 TONS/YEAR.
1984 - RIVERSIDE STARTS OPERATION IN CATERSVILLE, GA.
1985 - C+D BUYS ALLIED'S PLANT IN SYRACUSE, WHICH IS CLOSED IN JULY/85.

PRODUCER	CAPACITY*
Church & Dwight, Green River, Wyo.	200,000
Church & Dwight, Old Fort, Ohio	100,000
Kerr-McGee, Searles Valley, Calif	15,000
Riverside Products, Cartersville, GA . . .	30,000
Stauffer, Chicago Heights, Ill	72,000
Total	417,000

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*Thousands of tons per year. Church & Dwight bought Allied Corporation's 95,000-ton-per-year Syracuse, N.Y. plant in January 1985, and then closed the unit in July 1985 after Allied announced it was shutting down the accompanying raw material soda ash plant at Syracuse. Kerr-McGee's capacity is all non-USP grade and the plant has the ability to make up to 50,000 tons per year if market conditions warrant. Also, Church & Dwight's Green River facility can produce up to 240,000 tons per year if the market warrants. Profile last published 8/19/85; this revision 1/1/86.

Source: CHEMICAL PROFILES, Copyright 1986
By Schnell Publishing Company, Inc.

SODIUM BICARBONATE

U.S.A.

SUPPLY - DEMAND ACCORDING TO GEOGRAPHIC ZONES

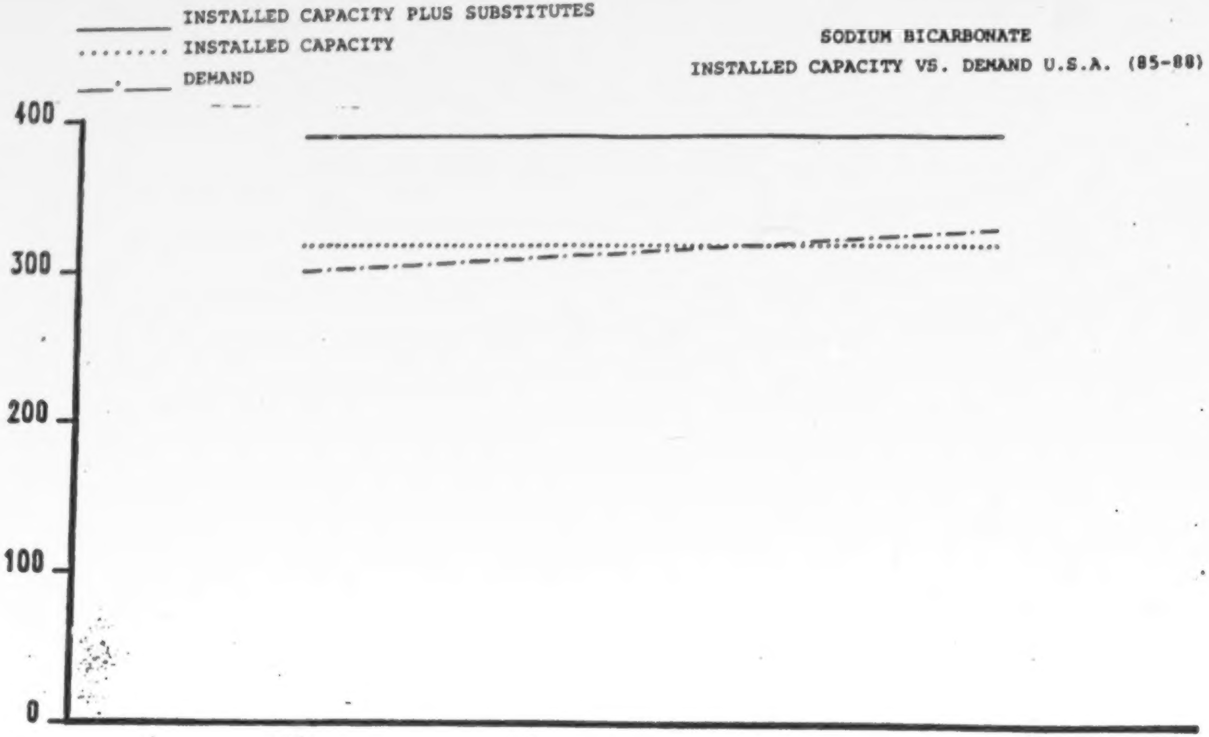
ZONE	DEMAND	INSTALLED CAPACITY	
		HIGH PURITY BICARBONATE	SUBSTITUTES
NORTH-EST	78,000	122,000	-
SOUTH-EAST	61,000	36,000	-
	93,000	-	-
ROCKY MTS.	9,000	159,000	55,000 (1)
PACIFIC COAST	49,000	-	18,000 (2)
TOTAL	290,000	317,000	73,000

(1) SODIUM SESQUIBARBONATE FROM FMC AND TENNECO

(2) TECHNICAL BICARBONATE FROM KERR-MCGEE

SODIUM BICARBONATE

INSTALLED CAPACITY VS. DEMAND U.S.A. (85-88)



	85	86	87	88
LLED CAPACITY PLUS SUBST.	390	390	390	390
LLED CAPACITY	317	317	317	317
D..	300	309	318	328

DEMANDS ANNUAL GROWTH 3. SYRACUSE NOT CONSIDERED CLOSED ON JULY 1985.

STATEMENT OF WILLIAM GRUNDY, CHAIRMAN, JOMAC PRODUCTS, INC., WARRINGTON, PA, ACCOMPANIED BY KENNETH BUTTON, PH.D., CHIEF ECONOMIST, ECONOMIC CONSULTING SERVICES, WASHINGTON, DC; AND CRAIG SCHULZ, EXECUTIVE DIRECTOR, WORK GLOVE MANUFACTURERS ASSOCIATION, CHICAGO, IL

Mr. GRUNDY. Yes, good afternoon. I am William J. Grundy, chairman of the board, JOMAC Products, Inc., a domestic manufacturer of work gloves with factories in Indiana, Missouri, and South Carolina. I am testifying on behalf of Work Glove Manufacturers Association in support of S. 2104, the bill to clarify the tariff classifications of certain work gloves. I am accompanied by Mr. Craig Schulz, executive director of WGMA and Mr. Kenneth Button, chief economist for Economic Consulting Services.

We have submitted a detailed statement for the record. At this time, I would like merely to summarize its key points.

The WGMA membership consists of most United States producers of work gloves. Some 33 producing companies are operating in 18 States. S. 2104 was introduced by Senators Heinz and Specter and has been modified at the suggestion of representatives of the executive branch. We find the revisions acceptable.

The current bill before you does not reflect these revisions. A copy of the modified language is attached to our statement. We are optimistic that the executive branch will shortly report to the committee that it has no objection to the modified legislation. The modified bill amends the tariff schedule to clarify the definition of textile work gloves, specifically with regard to those work gloves constructed of textile fabric that have been coated or impregnated with rubber or plastic compounds.

Termed "coated fabric gloves," these gloves are being classified under nontextile as well as textile tariff provisions. Because all of these gloves are in their essential character textile products, the proposed legislation explicitly defines them as such for tariff classification purposes. Mr. Chairman, with your permission, we would like to show you examples of the coated fabric gloves.

The following are the key points which we would like to emphasize. As noted, coated fabric work gloves are inherently textile products and should all be treated as such in tariff schedules. Even within Customs', current textile versus rubber/plastic classification framework, the Customs Service has such great difficulty in the uniform enforcement of its guidelines that there is major uncertainty as to whether any particular shipment of these gloves will be classified as textiles versus rubber or plastic.

In short, there is no established and uniform practice with regard to these gloves. All too frequently, however, these gloves are being entered not under the appropriate textile glove categories, but rather under a lower duty nonquota rubber and plastic category. Continuing circumvention tactics by importers have made the problem worse. only legislation can solve the problem. Because the proposed legislation is a measure to clarify product classification within the current tariff schedules and to combat circumvention, the bill should not raise significant trade agreement problems with exporters.

The United States work glove industry is already hard pressed by imports, and this classification problem is making the situation worse. Thank you for your attention. We are available to answer any questions you may have.

Senator DANFORTH. Thank you, sir. Mr. von Conrad.

[The prepared written testimony of Mr. Grundy follows:]

WGMA

BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE
COMMITTEE ON FINANCE
UNITED STATES SENATE

Statement By

William J. Grundy

Chairman
JOMAC Products, Inc.
863 Easton Road
Warrington, Pennsylvania 18976

On Behalf of the

Work Glove Manufacturers Association

In Support Of

S. 2104

Relating to the Tariff Classification
of Certain Work Gloves

May 5, 1986

work glove manufacturers association
70 WEST HUBBARD, SUITE 202 • CHICAGO, ILLINOIS 60610 • 312/644-2623

I. INTRODUCTION

I am William J. Grundy, Chairman of JOMAC Products, Inc., of Warrington, Pennsylvania, appearing on behalf of the Work Glove Manufacturers Association (WGMA) which strongly supports S.2104, as modified after discussions with the Executive Branch, a bill relating to the tariff classification of certain work gloves.* I am accompanied by Mr. Craig Schulz, Executive Direct of the WGMA, and Dr. Kenneth Button, Chief Economic of Economic Consulting Services Inc. The WGMA's membership consists of most U.S. producers of work gloves, some 33 glove producing companies and 30 supplier companies. WGMA members construct work gloves in whole or in part of textile fabrics, leather, rubber, and plastic. WGMA members operate in at least 18 states.**

S. 2104 was introduced by Senators Heinz and Specter. As modified, the proposed legislation amends the Tariff Schedules of the United States (TSUS) to clarify the definition of textile work gloves. The clarification is necessary because the present Tariff Schedules lack clarity with regard to the proper classification of a certain type of textile work gloves. These work gloves are constructed of textile fabric that is coated, filled, impregnated, or laminated, in whole or part, with rubber or plastics. Termed coated fabric work gloves, these gloves are being classified under non-textile as well as textile tariff provisions. Because all of these work gloves are essentially textile products, the proposed legislation explicitly defines them as articles of textile materials, thus ensuring that they are classified under the proper tariff provisions.

This statement emphasizes the following important points:

1. Coated textile fabric work gloves are inherently textile products and have the essential characteristics of textile based on their appearance, construction, and function.

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* The modified text is incorporated in the language of Section 216 of House Ways and Means Committee Print, dated April 18, 1986, attached.

** California, Connecticut, Georgia, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Mississippi, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas and Wisconsin.

2. The Customs Service has great difficulty in the accurate and uniform enforcement of classification rules and guidelines such that many coated fabric work gloves are being entered not under the appropriate textile glove categories but rather under a lower duty "rubber and plastics" category which is not covered by quota restraints.

3. Continuing circumvention tactics by importers have exacerbated the problem of ensuring consistent and proper classification of coated fabric work gloves.

4. The proposed legislation clarifies the tariff treatment of coated fabric work gloves through a headnote addition which states that they should be treated for Tariff Schedules purposes as the textile products which they are.

5. Because it is a measure to clarify product classification within the current Tariff Schedules and to combat circumvention, the bill should not raise significant trade agreement problems among exporters. However, any legitimate trade effect can be dealt with through routine trade procedures.

6. Only work gloves are affected by this measure. Dress gloves -- which are designed to simulate leather and which are structurally different from work gloves in that they have fourchettes between all of the fingers and a sidewall along the outside of the little finger -- are not affected.

7. The U.S. work glove industry is already hard pressed by imports, and the current coated fabric work glove classification problems are making this situation worse.

II. COATED TEXTILE FABRIC WORK GLOVES ARE FUNDAMENTALLY TEXTILE PRODUCTS

The essential reality underlying this bill is that work gloves made out of coated textile fabric are textile products and ought to be treated as such in the tariff schedule. The production of these gloves begins with a textile fabric which is then coated, impregnated, or otherwise treated with a rubber or plastic compound. It should be emphasized that the resulting coated textile fabric is considered in the Tariff Schedules to be a textile product. Congress has been explicit in specifying this.* This textile product is then cut into pieces of appropriate shape which are sewn together to form the final textile product -- the coated work glove.

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* See Section 111 of the Trade and Tariff Act of 1984, PL 98-573.

The textile character of the gloves is evident either through a simple visual examination or an analysis of their structure and functions. The fabric construction is obviously clear by the presence of easily-seen multiple seams by which the various fabric pieces are sewn together. The fabric nature of the product is also quite clear merely by looking at the exterior surface and is unambiguous when putting the gloves on since the untreated cloth side of the fabric is immediately felt against the skin. Indeed, the exposed cloth surface of the coated fabric against the hand is what the wearer is most conscious of.

Besides being evident in their appearance, the basic textile characteristic of the coated gloves is clear in their function. First, there would be no glove if there were no fabric to which a coating or impregnation could be applied; structurally, the gloves are made from a fabric without which no glove could be sewn together.

Second, the soft fabric surface laying against the hand provides a first line element of hand protection -- which is the primary reason for wearing work gloves.

Third, the particular characteristics of textiles are important in giving these gloves their superior performance. For example, the product catalogues of the glove producers and importers -- including those of the major importers, such as Cardinal Glove Co. and Latex Glove Co. -- specifically emphasize the benefits afforded by the gloves due to their textile character. The catalogue of Latex Glove Co. emphasizes the good fit resulting from the "comfortable knit fabric."* It further highlights the comfortable stretch quality only available with coated fabric gloves in one category heading -- "S-T-R-E-T-C-H Gloves" -- and notes: "Tough vinyl coating bonded to knit fabric stretches to fit."**

The chief weight and chief value of coated fabric work gloves can be either textile or rubber/plastic depending upon the particular glove type. Generally the balance in terms of these criteria is close. As noted below, the opportunity for manipulation of chief weight and chief value makes classification reliance on them ripe for the tariff circumvention tactics which have been so frequently associated with coated fabric work gloves.

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* Catalogue attached to April 7, 1986 statement by Latex Glove Co. Inc. to the Committee on Ways and Means, p. 16.

** Id.

The textile character of the coated gloves is further evidenced by the fact that these gloves are used for the same purposes as plain textile gloves are are marketed based on their superior grip, abrasion resistance, and durability. The Latex Glove Company catalogue refers to the coated gloves as "General Purpose Gloves" and described them as:

> "An all around favorite for general purpose use. Premium PVC impregnated on strong cotton base fabric lasts much longer than untreated fabric gloves."*

III. PROBLEMS WITH CUSTOMS SERVICE CLASSIFICATION OF COATED FABRIC WORK GLOVES

Given the basic textile character of these coated fabric work gloves, the U.S. industry is very concerned that the Customs Service has great difficulty in the accurate and uniform enforcement of classification rules and guidelines such that many coated fabric work gloves are being entered not under the appropriate textile glove categories but rather under a lower duty "rubber and plastics" category which is not subject to textile quota.** It appears that Customs is attempting to find guidance for its classifications in the language of Headnote 5(a) of Schedule 3 which makes reference to whether a coating or impregnation on a coated fabric "as used in the article" is "nontransparent."

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* *Id*. Importers have attempted to create the impression that the use of the term "rubber or plastic" in government or industry labels associated with these gloves is conclusive proof that they are in no way textile products. The superficiality and incorrectness of this argument is obvious. As with many products, a descriptive term relating to one of the product's attributes may be used as a shorthand label for it even when the label does not provide convey the product's overall character. The phrase "rubber or plastic" as applied to coated work gloves is merely a shorthand way to avoid reiterating the unwieldily phrase "rubber or plastic coated textile fabric work gloves."

** Those coated fabric work gloves classified as rubber or plastic products under TSUS 705.86 are currently subject to a duty of only 16.6 percent rather than the proper textile categories' duties which range from 15.7 percent plus 14¢/lb. to 25 percent depending on the particulary textile category involved.

Two fundamental problems exist with regard to Customs' effort to make classifications on the basis of Headnote 5(a). First, the clear legislative intent of the phrasing was to apply it -- as stated in the relevant House Report* -- when "the textile characteristics of these [coated] fabrics may be completely lost in the final product." As detailed above, the coated fabric work gloves clearly maintain their "textile characteristics." These work gloves are not intended to convey the impression of being anything other than work gloves constructed out of coated textile fabric and are, therefore, quite distinct from other products such as those of "simulated leather." The coated work gloves ought always to have been treated as textile products.

Second, even in the application of Headnote 5(a), however, there is great ambiguity and uncertainty as to whether any particular import of these work gloves will be treated by Customs as plastic gloves or as textile gloves. As a result of the inherent inapplicability of Headnote 5(a) to coated fabric work gloves, Customs has been forced into the position of developing torturously complex criteria to determine in concrete circumstances what constitutes a "nontransparent" coating such that the textile character is lost. Customs, in a 1982 ruling,** attempted to create two criteria for meeting this test: (1) The coating must be "opaque." (2) "...[T]he textile surface character of the fabric be eliminated." Yet even in applying these criteria, Customs is forced into extreme and convoluted analysis which misses the basic point. For example, on the issue of opacity, the identity of the gloves as a textile product could turn on whether a light colored pigment versus a dark colored pigment has been added to the plastic coating compound. Obviously, in both cases the basic glove is the same. As to the second criteria, Customs has found itself forced to assess whether the textile character of the outer surface has been "lost" by whether or not "the fibers or filaments forming the yarns which comprise those fabrics or their impressions are discernable, even under magnification."*** Once again, Customs officers contend with considerable subjectivity as to whether or not one can discern fabric fibers and under what degree of magnification this should be done.

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* Tariff Schedules Technical Amendments Act of 1965, House Report No. 342, 89th Congress, 1st Session, Section 13(3), p. 779.

** U.S. Customs Service, Binding Rulings 802540 and 802346, Concerning Plastic Wearing Apparel, June 14, 1982.

*** Id.

WGMA members are aware that in numerous instances the same coated work glove type has been classified as textile in some Customs ports and plastic in others. Customs directives on this subject are clearly not consistently applied and, for all practical purposes, cannot be consistently applied because of the great subjectivity inherent in the application of Headnote 5(a). The result is a substantial degree of uncertainty for all parties concerned.

The history of uncertainty and subjectivity as to the proper classification of these gloves makes clear that there is no "established and uniform" practice in classifying these gloves. In fact, the situation is one of such uncertainty that there have been instances in which the same Customs officer applying the same guidelines has classified the same glove differently on different occasions. The Customs Service has indicated to the WGMA that it would welcome measures reducing the subjectivity it faces in making such classification decisions.

One importer -- Latex Glove Company -- claims that there has in fact been an "established and uniform" practice and has submitted copies of eight Customs rulings on the question to support its contention. Yet, to the contrary, it is obvious that the mere fact that Latex again and again had to ask Customs for rulings on what it claims is the same type of glove is itself proof that the classification of the gloves as textile versus rubber/plastic was persistently uncertain and had to be specifically examined by Customs in each case. If an established practice existed, no such letters would have been necessary.

Furthermore, even more telling is the fact that the another major importer of these work gloves -- Cardinal Glove Company -- openly states in its submission to the Trade Subcommittee of the House Ways and Means Committee that as to the classification of certain coated fabric work

> "[i]n the past year, officials at several ports throughout the United States have expressed the opinion that Customs' longstanding practice may be incorrect, and have concluded that certain of Cardinal's cotton backed plastic gloves should be classified as being composed of textile material."

Customs is now carrying out an investigation concerning the specific type of coated gloves imported by Cardinal. Note that in the above quote, Cardinal's reference to "longstanding practice" is its own opinion and, according to a Headquarters official, does not necessarily reflect Customs' position.

In summary, there are obvious problems with applying Headnote 5(a) to coated fabric work gloves. As inherently textile products, they should not be covered by it. When it is applied to them, the not surprising result is great subjectivity and uncertainty as to how it should be interpreted. The proposed legislation cleanly resolves these problem by clarifying the textile nature of these gloves.

IV. CIRCUMVENTION TACTICS ON IMPORTED COATED FABRIC WORK GLOVES

Continuing circumvention tactics by importers have exacerbated the problem of ensuring proper classification of coated fabric work gloves. The difficulties described above regarding Customs' classification of these gloves make it all the more easy for those who wish to shift their products into tariff categories which have lower duty rates or which are not covered by a textile quota agreement. The continuing uncertainty about what constitutes "opacity" or how apparent a textile fiber must be before it is "discernible" permit foreign glove producers to make minor, non-functional changes to their gloves -- such as a darker pigment in the compound -- to ensure classification as rubber or plastic gloves.

There is very clear evidence that, in the absence of the proposed legislation, such circumvention will continue to take place. Current importers of these gloves include importers which were previously guilty of blatant circumvention tactics regarding the application of a "token fabric fourchettes or sidewall" to these very coated fabric work gloves in order to enter them at a reduced duty. For example, all of the previously-referred to Customs ruling letters submitted to the House Ways and Means Committee by Cardinal Glove Company were for coated fabric work gloves with the token fourchettes or sidewalls. It was only with legislation that this specific circumvention was halted* and it will only be through the proposed legislation that future circumvention tactics can be halted.

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* Section 113 of the Trade and Tariff Act of 1984.

V. THE PROPOSED LEGISLATION: S. 2104, AS MODIFIED

The proposed legislation -- S.2104, as modified -- solves the various problems cited above through a clarifying amendment which ensures Tariff Schedules treatment of coated fabric work gloves purposes as the textile products which they are. The proposed legislation as modified after discussions with the Executive Branch makes two amendments to the Tariff Schedules: First, it inserts into Headnote 5(a) of Schedule 3 an addition to that headnote's existing list of products areas not to be covered by the headnote, thus explicitly removing coated fabric work gloves from Headnote 5(a) coverage. Second, an addition to a headnote in Schedule 7 explicitly states that coated fabric work gloves shall be regarded as gloves of textile materials, thus directing that they should be classified among the textile work glove categories according to their fiber content, just as is currently done with plain textile work gloves.

VI. NO SIGNIFICANT PROBLEMS SHOULD ARISE UNDER THE UNITED STATES' INTERNATIONAL AGREEMENTS

As a measure to clarify product classification within the current Tariff Schedule and to combat circumvention, the bill should not raise significant trade agreement problems among exporters. However, any legitimate trade effect can be dealt with through routine trade procedures.

It is within the rights of the United States under the Multifiber Arrangement (MFA) and its bilateral textile agreements to take measures to clarify its tariff treatment of a product and to counter duty circumvention tactics, particularly when there has not existed an "established and uniform practice" related to its classification. It has long been the policy of the United States that compensation was unnecessary in such cases. However, the WGMA realizes that to the extent that legitimate trade is shifted to tariff categories subject to bilateral textile restraint agreements, the Executive Branch may have to examine the possibility that certain quota adjustments might be necessary. Clearly, there exists a well established administrative machinery for resolving any such questions.

VII. THE SCOPE OF THE PROPOSED LEGISLATION IN STRICTLY LIMITED TO COATED FABRIC WORK GLOVES

Only coated fabric work gloves are affected by the proposed legislation. Dress gloves -- which are designed to simulate leather and which are structurally different from work gloves in that they have fourchettes and sidewalls -- are not affected. Thus, the scope of S.2104, as modified, is strictly limited to the coated fabric work gloves in question.

VIII. THE U.S. WORK GLOVE INDUSTRY IS IMPORT SENSITIVE

The U.S. work glove industry is already hard pressed by imports, and the current coated fabric work glove classification problems are making this situation worse. Across all categories of work gloves, the U.S. industry is facing growing competition from foreign producers which are gaining increasing shares of the U.S. market. The effect has been to reduce the number of U.S. companies which make these products and to reduce employment in companies which still do so. This import impact has frequently been concentrated in geographic areas already hard hit with import-related unemployment problems. Firms in the industry are typically small- to medium-sized establishments and are located throughout the United States. Minorities, both racial and women, comprise a major portion of the work force in this industry.

These problems are clearly evident both among those companies making coated fabric work gloves and also among those companies which produce the fabric which receives the coating.

Imports of these gloves appear to be increasing rapidly. Coated fabric work gloves which Customs classifies as rubber or plastic products are currently entered in TSUS 705.86. It is difficult, however, to determine precisely the quantity of imports of these gloves because TSUS 705.86 also contains another category of work gloves not constructed from coated fabric and not affected by the modified version of S.2104. Furthermore, until 1985, a quantity of coated fabric work gloves entered under TSUSA 705.8520, a category designed for dress gloves but available for some coated fabric work gloves because of the "token fabric fourchette" circumvention tactic referred to above. In 1981, legislation closing this circumvention loophole resulted in an unknown quantity of work gloves being henceforth entered in TSUS 705.86.

Total U.S. imports of gloves under these two TSUS numbers for the 1982-86 period are shown in the attached table. It is clear that imports under TSUS 705.86 have increased dramatically from 364,137 dozen pairs in 1982 to almost 2.3 million dozen pairs in 1985. If one combines imports under TSUS 705.86 and TSUS 705.8520, there is still almost a doubling from 1.6 million dozen pairs to 3.0 million dozen pairs over the same period. The primary countries supplying these gloves are Barbados, Hong Kong, Taiwan, China, and Korea.

Without passage of the proposed legislation, there is a great danger that the health of the U.S. work glove industry will deteriorate further.

VIII. CONCLUSION

Clarification is necessary as to the proper treatment of coated fabric work gloves under the U.S. Tariff Schedules. These work gloves are fundamentally textile products as evidenced by their appearance, construction, and use. There has been a long-standing problem as to the proper tariff classification of these gloves which only legislation can solve. Application by Customs of current classification criteria leads to the inappropriate classification of such gloves as rubber and plastic products rather than textile products. The proposed legislation -- S.2104, as modified after discussions with the Executive Branch -- solves the problem by unambiguously acknowledging that coated fabric work gloves are textile products. Because the proposed amendment is intended only to clarify a Customs classification procedure and to prevent circumvention, it should not raise significant trade agreement problems among exporters. Without the legislation, the U.S. work glove industry, which is already under major import pressure, may face significant further deterioration.

ATTACHMENTS

[COMMITTEE PRINT]

[April 18, 1986]

99th Congress
2d Session

H. R.

To reform the trade laws; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

April , 1986

Mr. Gibbons introduced the following bill; which was referred to the Committee on

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A BILL

To reform the trade laws; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Comprehensive Trade Policy Reform Act of 1986".

(b) Table of Contents.—

TITLE I—TRADE OF LAW AMENDMENTS.

Subtitle A—Enforcement of United States Trade Agreement Rights and Response to Foreign Trade Practices

Chapter 1—Amendments to Trade Act of 1974

Sec. 111. Reference to Trade Act of 1974.

SEC. 216. CERTAIN WORK GLOVES.

The Schedules are amended as follows:

(1) Headnote 5(a) of schedule 3 is amended by striking out "(except subpart A)" and inserting "(except subparts A and C)".

(2) Headnote 1 of subpart C of part 1 of schedule 7 is amended by inserting immediately after subdivision (c) the following new subdivision:

"(d) gloves, without fourchettes, constructed of a textile fabric coated, filled, impregnated, or laminated, in whole or in part, with rubber or plastics and cut-and-sewn shall be regarded as gloves of textile materials.".

SEC. 217. BROADWOVEN FABRICS OF MAN-MADE FIBERS.

Subpart E of part 3 of schedule 3 is amended by striking out item 338.50 and inserting the following new items with the article description for item 338.60 at the same indentation level as the article description for item 338.40:

"	338.60	Containing 85% or more by weight of continuous man-made fibers	2¢ per lb. + 17.9% ad val.		81% ad val.	
		Other:				
	338.70	Weighing not more than 5 oz. per square yard	2¢ per lb. + 17.9% ad val.		81% ad val.	
	338.80	Other	2¢ per lb. + 17.9% ad val.		81% ad val.	".

(b) STAGING.—The rate of duty in column numbered 1 for each of items 408.34, 338.60, 338.70, and 338.80 (as added by subsection (a)) shall be subject to all staged rate

U.S. IMPORTS OF CERTAIN GLOVES, 1982-85

(quantity in dozen pairs)

	1982	1983	1984	1985
Rubber or plastic gloves with textile fabric fourchettes or sidewalls, TSUSA 705.8520	1,272,381	1,347,761	1,758,799	731,748
Coated fabric work gloves and dipped-supported work gloves, TSUSA 705.8600	364,137	541,312	896,508	2,297,593
Total	1,636,518	1,889,073	2,655,307	3,011,341

Source: U.S. Department of Commerce.

STATEMENT OF GUNTER VON CONRAD, ESQ., BARNES, RICHARDSON & COLBURN, WASHINGTON, DC; ON BEHALF OF MAGID GLOVE AND SAFETY MANUFACTURING CO.

Mr. VON CONRAD. Thank you, Mr. Chairman. I am Gunter von Conrad, a partner in the law firm of Barnes, Richardson and Colburn, appearing on behalf of Magid Glove and Safety Manufacturing Co. of Chicago in opposition to S. 2104 on work gloves. Magid is a domestic manufacturer and an importer of work gloves. In addition to Magid Gloves, the Latex Glove Co. of Northbrook, IL, has authorized me to represent to this committee that Latex joins Magid in its position. Latex has made a separate submission to the committee.

We respectfully oppose S. 2104 for the following reasons: The bill would redefine rubber- and plastic-coated gloves as textiles. I, too, have some samples which I will offer up. This bill would increase duties and would impose quotas, thereby increasing the cost of essential safety protection for the American worker and consumer. Coated gloves are different from textile gloves, both in base products and in use.

They are not generally interchangeable. They are classified as different items in the standard industrial classification which applies to domestic gloves and in the tariff schedules which applies to imports and, in the harmonized commodity system, which is just now being negotiated. The proposed amendment, Mr. Chairman, would add fiction and confusion to an already complex tariff scheme.

It contradicts some of the basic principles of our classification system and raises questions about the consistency and integrity. I need but refer to general head note 9(i) of the tariff schedules and to a conflict which would appear in various other head notes as the result of this bill. The proposal would violate the MFA and GATT by adding merchandise to quota categories, thereby effectively reducing the quota and unbinding GATT commitments made by the United States in past negotiations.

This, in turn, would entail compensation demands, and possible retaliation, and would burden future negotiations. I cannot agree to the cavalier statement of the proponents of the bill that this would have no consequence, as has been stated in their written submission.

Economic data suggests that coated glove consumption has grown, and domestic production right along with imports.

I am speaking here, of course, to S. 2401 as it stands before the committee today and not with respect to a bill that is in the House which I am led to believe has been currently taken out of the general group of bills that is up for consideration. I would also point out that the data which are presented by the association—the Glove Manufacturers Association—portray an inaccurate picture because they fail to mention the statistical reclassification which took place in 1985.

Last, the restrictions sought, because of imports, allegedly should be brought before appropriate Government agencies under existing laws. We have laws dealing with fair and unfair import impact. We have the escape clause. We have dumping, countervail; we have 301 remedies and others.

Moreover, with respect to Customs administration, we believe the laws and regulations dealing with misclassification or cheating can be enforced. I know that there are procedures called American manufacturers protest, and I know there are penalty provisions in case this is not done. Thank you, Mr. Chairman, for the courtesty of hearing us; and I would like to extend our appreciation to the staff which has been very helpful in dealing with all the witnesses, I am sure. Thank you.

Senator DANFORTH. All right.

[The prepared written testimony of Mr. von Conrad follows:]

Before the

UNITED STATES SENATE COMMITTEE ON FINANCE

Hearing on Tariff and Trade Proposals, May 5, 1986

STATEMENT ON BEHALF OF
MAGID GLOVE AND SAFETY MANUFACTURING COMPANY
2060 North Kolmar Avenue, Chicago IL 60639

IN OPPOSITION TO S.2104
TARIFF CLASSIFICATION OF CERTAIN WORK GLOVES

BARNES RICHARDSON & COLBURN
4000 Prudential Plaza
Chicago, Illinois 60601
(312) 565-2000
and
1819 H Street, N.W.
Washington, D.C. 20006
(202) 457-0300
Gunter von Conrad)
Donald J. Unger) Counsel
David A. Riggle)

This prehearing statement is submitted on behalf of Magid Glove and Safety Manufacturing Company, 2060 North Kolmar Avenue, Chicago, Illinois 60639.

The proposed amendment to the Tariff Schedules of the United States as set forth in S.2104 is opposed by Magid Glove and Safety Manufacturing Company, a domestic manufacturer and importer of gloves. Magid Glove wishes to first bring to the attention of the Committee the fact that rubber or plastic coated gloves do not, either from an industry or a long standing practice under the Tariff Schedules, meet the essential characteristics of a textile product.

Gloves the subject of this matter are specifically described in Subpart C to Part 1 of Schedule 7 of the Tariff Schedules as "Gloves of Rubber or plastics." According to General Headnote 9(i) to the Tariff Schedules the term "of" means the article is wholly or in chief value of the named material." Under Headnote 5(a) of Schedule 3, fabric coated or filled or laminated with non-transparent rubber or plastic is not regarded as a textile but rather as wholly of rubber or plastic where it forms either the outer surface of the article or the only exposed surface of such fabric. This statutory requirement follows the standard industry practice of differentiating between rubber or plastic gloves and textile gloves. The change under proposed S.2104 would radically alter the well-established practice in the industry which is reflected in the Tariff Schedules.

Coated gloves exist within the marketplace because of the presence of the rubber or plastic coating, not the textile backing. It is the rubber or plastic coating which imparts the essential characteristic to the gloves. Even a cursory comparison of a rubber or plastic coated glove to a textile glove illustrates that these are different products. Depending on the type of coating, the rubber or plastic coated gloves are: liquid proof, liquid resistant, longer wearing, better gripping or more launderable (i.e. they will withstand more launderings, will not shrink, and will be washed cleaner since they shed dirt more easily). The essential characteristics imparted by the rubber or plastic coating constitute the reason that the consumer buys these gloves. Without these characteristics, the gloves would not suit the purpose for which they are marketed.

In addition, the glove industry considers rubber or plastic coated gloves to be different from textile gloves. The two types are marketed and sold under different names for different purposes. That they are different is demonstrated by the separate Standard Industrial Classification listings for rubber or plastic gloves and for textile gloves. Rubber or plastic coated gloves are classified under SIC item 2381238. (See Current Industrial Reports MA 23-D). In contrast, the SIC category for textile gloves is 2381210 through 2381234. The changes proposed by S.2104 would not be in keeping with the well-established commercial practice or statistical listing.

It is also submitted that this bill would reclassify rubber or plastic gloves into the textile provisions, which would be in violation of the Multifiber Arrangement and bilateral textile treaties the U.S. has with various countries. Should the classification of rubber or plastic coated gloves be changed as proposed in S.2104, the quota quantities for each country would be changed unilaterally by the United States. We submit that this is not in keeping with the obligations of the United States to its treaty partners.

The bill as proposed would also be in direct violation of the United States obligations under the General Agreement on Tariffs and Trade (GATT) and would impermissibly expand the scope of the Multifiber Arrangement as well as bilateral textile agreements. The change in tariff classification for these gloves from a non-textile category to a textile category would have a negative impact on the United States as a participant in the World Market.

Initially, it would raise the duty rates for the gloves. As currently classified, gloves would be imported under TSUS item 705.86 as "Gloves of Rubber or Plastic: Other" at a duty rate of 16.6% ad valorem in 1986 and 14% ad valorem in 1987. As reclassified by the bill, gloves with a cotton textile backing would come in under either TSUS item 704.40 as "Gloves not of lace or net and not ornamented and glove linings: woven" at a rate of duty of 25% ad valorem or item 704.45 as "Gloves not of lace or net and not ornamented, and glove linings: not woven" at a rate of duty of 25% ad valorem. This significant increase in duty, from 14% to 25% would be in contravention of the tariff bindings entered into by the United States during the

Tokyo Round and would invite retaliation from our trading partners under the GATT.

The U.S. is bound by the Geneva protocol to follow the duty reductions it entered into under the Tokyo round of multilateral trade negotiations. To unilaterally raise the rate of duty on articles included in item 705.86 would violate these bindings.

Bills which unilaterally increase duties have long been held in disfavor by the United States Congress. To adopt such a bill at this time would set a dangerous precedent and could exacerbate relations with our allies.

Secondly, even if this bill did not increase the duties on these gloves, it would still be violative of our GATT agreements. It would be the unilateral imposition of trade barriers on a product which does not fall within a recognized exception the the GATT. In fact, Article XI of the GATT to which the U.S. is signatory, states:

> No prohibition or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party...

Again, our trading partners would be legally justified in retaliating against United States exports. For this reason, bills which unilaterally impose quotas have also been held in disfavor by the Congress.

Thirdly, there is no economic support for the arguments that coated work gloves should be subjected to increased duties or quotas. Available statistics indicate that domestic coated glove production has increased from 1983 to 1984, the latest year for which data are available. Imports which participated in meeting consumption needs, were and are required to meet demand.

Finally, this bill would unilaterally expand the coverage of the Multi Fiber Arrangement and the various textile treaties the United States has with its trading partners.

To unilaterally incorporate these goods as textile items in the Tariff Schedules would threaten the very existence of these treaties just as these treaties are being renegotiated.

Respectfully submitted

MAGID GLOVE AND SAFETY
MANUFACTURING COMPANY

By Conrad
Gunter von Conrad, Counsel
BARNES RICHARDSON & COLBURN

May 1, 1986

Senator **Danforth**. Gentleman, let me see if I can get to the nub of this issue. The question is whether this is plastic or whether this is a textile?

Mr. **Grundy**. That is correct.

Senator **Danforth**. Is that correct, Mr. von Conrad? Is that the issue? Is this plastic?

Mr. **von Conrad**. No, sir; I do not believe that the issue involves this particular glove at all. I have brought with me some samples which I will offer up which I believe are the issue. I do not know that the glove that the chairman has there presents that question because there is a question of interpretation as to whether this is in chief weight or in chief value of plastics or textiles. I am not talking to those kinds of gloves. I am talking to the gloves I am offering up here—the blue ones—and I will offer up the textile liners of that. That is the glove I am talking about.

Senator **Danforth**. All right. How about this? What is this?

Mr. **von Conrad**. That is a liner.

Senator **Danforth**. Is it a textile or plastic?

Mr. **von Conrad**. The liner, as such, is a textile. There is no question about that.

Senator **Danforth**. How is it supposed to come in?

Mr. **von Conrad**. It would be classified as a textile. Not a plastic—also no question.

Senator **Danforth**. And then, this is what you say is plastic? This should come in as plastic?

Mr. **von Conrad**. That is correct. Under our current definition in the tariff schedules, that very clearly is a plastic glove.

Senator **Danforth**. What do you say to that, Mr. Grundy? What do you think this is?

Mr. **Grundy**. That is one of the gloves that has caused the problem with the Customs people. That is the type of thing that, at one time, may be brought in as plastic and, at another time, it will be brought in as textile.

The bill as presented is in the interest of clarifying and not eliminating. The bill is in the interest of establishing for our Customs people without their discretion, without a judgment call as to what a product is. At the moment, some of their procedures call for them to look at gloves such as that under magnification to determine whether or not these textile fibers are discernible.

If they are discernible, then they are textile. Now, it is unrealistic to think that all of the Customs inspectors are going to take and look at gloves under magnification to determine what they are.

Senator **Danforth**. But is this viewed as plastic or a textile by the Customs Service?

Mr. **Button**. Mr. Chairman.

Senator **Danforth**. Yes.

Mr. **Button**. What you are holding is a rather odd sort of creature. It is not a typical work glove. It has clearly been designed by somebody we believe for circumvention purposes to define it as rubber or plastic. It is not a typical work glove. The real problem, and that is the great danger from our point of view, is perhaps one of the yellow gloves that sits before you.

Senator **Danforth**. Let me ask you about this. Is this a textile or plastic? How did this come in?

Mr. BUTTON. We believe, but we can't verify, that that was imported under the rubber or plastic category. We can't confirm that.

Senator DANFORTH. How about this one? How about this yellow one? Is this plastic?

Mr. SCHULZ. Excuse me; I want to answer the question about that orange one. That was sent to me by one of my members saying—after I had defined the problem in a newsletter—he sent me that glove and said that he agreed with my assessment of the problem. He had received that glove and had a quote on that glove; and the letter indicated that the coating on the back of that glove made it ineligible for quota. Therefore, they could order as many as they wanted without quota restrictions.

Senator DANFORTH. In other words, you believe that this is viewed by the Customs Service as being plastic?

Mr. SCHULZ. In certain situations, depending upon the port of entry, yes. That is part of the problem—is the confusion generated by——

Senator DANFORTH. Do you think this should be considered plastic, Mr. von Conrad?

Mr. VON CONRAD. Sir, I believe if this were brought in as either a plastic or a textile glove; and if someone is dissatisfied with its classification, it is a perfectly appropriate case to say I am dissatisfied. I raise an American manufacturer's protest and I have it determined. I cannot sit here and tell exactly what this is because it assumes an evaluation of either chief value or possibly of chief weight of the materials involved.

Offhand, I would say, looking at this, this is probably in chief weight and value a textile article; but I can't say that. This is a matter of analysis; but there are mechanisms—what I am trying to say—there are mechanisms to clarify the very questions which are sought to be legislated here and, with respect, I would say we should not add further chaos to the already exceedingly complex tariff schedule.

Senator DANFORTH. Why is it chaotic? Mr. Grundy wants all work gloves to be viewed as textiles; is that right?

Mr. GRUNDY. That is right. All work gloves that we are speaking of here—all cut and sewn work gloves, yes.

Senator DANFORTH. Why isn't that easier than making a Federal case out of everything, Mr. von Conrad?

Mr. VON CONRAD. I believe that when you look at the blue gloves that we have placed in front of you, Mr. Chairman, it is possible to look at that for a customs person or for an importer and determine that. And if it isn't possible, then it is possible to get a ruling on the subject.

The difficulty with the legislation before us is that it redefines a lot of general headnotes in the tariff schedules, and it makes uncertain the entire application of the tariff schedules. May I invite the Senator's attention to the fact that the item sought to be corrected in the tariff schedule is called gloves of leather or plastic. Now, that little word of may seem to be a technical word, and it is.

And when you go back to the general headnotes of the tariff schedules, which has been in existence for a long time, you will find that this little word of means something very specific. It has a legal meaning that has gone through many generations of court cases and determinations by the Customs Service. You will find that that means and it is defined to mean in chief value of the predominant article. And when we legislate what we are purporting to legislate here, then we are changing that definition implicitly. There are also other problems. I could go on for quite a while, but I don't want to belabor the record with it. We have it in our written statements.

Senator DANFORTH. All right. Gentlemen, thank you very much for your testimonies and for your exhibits.

Next, we have S. 2222: Mr. Richard Barnes, on behalf of the American Plywood Association; and Mr. John Rehm, on behalf of MacMillan Bloedel. Mr. Barnes.

STATEMENT OF RICHARD L. BARNES, ESQ., PRESTON, THORGRIMSON, ELLIS & HOLMAN, WASHINGTON, DC; ON BEHALF OF THE AMERICAN PLYWOOD ASSOCIATION

Mr. BARNES. Thank you, Mr. Chairman. The American Plywood Association is firmly in favor of S. 2222. Many of the discussions you have heard today center on rather substantial policy issues. This bill addresses basically a technical question to resolve an ambiguity in some of the headnotes affecting panel products that are imported into the United States.

One of the headnotes deals with the product plywood. It defines plywood essentially in terms of the characteristics of the product. Another headnote defines building boards, to some extent in terms of the use of the product. As a result, we have an overlap between the two. A problem has arisen because there has been a relatively small importation from Canada of a product which its manufacturer calls plywood, which looks like plywood; and is made like plywood. It happens to have one of its striations dowo the edge; as a result, the Customs Service has termed it a building board.

From a competitive standpoint, that means it is coming in at a duty of something under 10 percent, depending on the particular value of the product at the time. The duty for plywood is 20 percent.

If I may be permitted to show the chairman two of the panels: this is the Canadian product [displaying first panel]. Notice that it has a number of these striations down the center, which are permissible within the definition of plywood. It also has an edge groove, which has apparently caused the Customs Service to define it as building board. This [displaying second panel] is a piece of a competitive United States-made product, which is plywood and made like plywood. Both panels are redcedar products. Basically, it is the same product.

There has been some concern raised by the opponents of this bill in the past whether there would be GATT implications in clarifying these headnotes. In our view, first, an ambiguity is being clarified; no product is being moved from one catgegory to another. It is simply a matter of saying what Congress intended all along. Second, the volume of products coming in is actually not very substantial. There was some increase in the early 1980's such that the volume of building boards coming in from Canada moved from substantially less than plywood imports to about 1½ times the volume of plywood. That ratio has since stayed about the same, although the gross volumes have gone up and down. So, we do not believe there is any GATT implication here that should be a consideration.

Mr. Chairman, I am sure you are familiar with the saying "If it looks like a duck and walks like a duck and quacks like a duck, it must be a duck." We have the same situation here. It look like plywood; it is made like plywood; it is called plywood by its Canadian manufacturer; it ought to be treated as plywood for purposes of the TSUS.

One further point: In the building boards category, the article is "building boards not otherwise provided for." We believe that, although there is something of an overlap, the plywood definition should override the building boards definition because plywood is a building board that is "otherwise provided for."

Thank you.

Senator DANFORTH. Thank you, sir. Mr. Rehm.

[The prepared written testimony of Mr. Barnes follows:]

STATEMENT OF AMERICAN PLYWOOD ASSOCIATION
IN SUPPORT OF S.2222
CONCERNING TARIFF TREATMENT OF CERTAIN TYPES OF PLYWOOD
April 21, 1986

This statement is on behalf of the American Plywood Association (APA) of Tacoma, Washington. APA is a trade association comprised of plywood and other structural panel manufacturers located throughout the United States. APA's membership includes producers of more than 80% of the structural panels manufactured in the United States. Members include small employee-owned co-ops, privately owned firms, and Fortune 500 corporations. APA is the principal national voice of the plywood industry.

APA supports enactment of S. 2222.

S. 2222 is a technical definitions tariff measure which would eliminate confusion in the categorization of plywood imported into the United States. This measure would correct a Customs Service interpretation of the relevant tariff headnotes, which interpretation Customs has stated can be corrected only by Congress.

Confusion presently arises concerning imports of certain plywood products from Canada. In Section 2, Part 3 of the Tariff Schedules of the United States (TSUS) there are two categories under which softwood plywood panels are being imported into the United State. Category 240.21 covers plywood with a face veneer of softwood whether or not face finished. Category 245.80 covered "laminated boards bonded in whole or in part or impregnated with synthetic resins," whether or not face finished. Both descriptions cover the manufacturing method of plywood. Items classifiable as 240.21 carry a duty of 20% ad valorem. Items classifiable as 245.80 carry a duty of 2.6% ad valorem plus 1.4¢ per pound; at present market prices, this results in a total duty of between 9% and 10%.

As a result of a Customs Service determination, softwood plywood panels which have been "edge-worked" (ship-lapped or grooved) are being imported as building boards under 245.80 at the lower duty rate rather than under 240.21. Edge-working of the plywood at issue is a process by which a groove is cut along each long edge of the panel so that when the panels are put in place, the edge of one will overlap the edge of the next in what is called a shiplap. The additional manufacturing process of the edge-working adds about $10 per thousand square feet to the value of the product. This cost is only about four percent of total product value in the present market. Thus, the tariff savings more than pay for the edge work. S. 2222 would clarify this discrepancy in the tariff schedule by including in the headnotes a description of edge-working so that any softwood veneer panels laminated to form plywood sheets receive uniform duties.

Although a Canadian manufacturer of edge-worked plywood calls its product "cedar-faced plywood panels" in its literature (copy attached), the Customs Service nonetheless is categorizing the product as building boards. It is uncertain how much such product is being imported as building boards because Category 245.80 of the TSUS also includes wood tiles, boards composed from several types of wood products and insulation boards; no statistical breakout is provided by the U.S. government.

By contrast, Canada's tariff schedule does not provide for a lower duty treatment for plywood or any other panel product that has been edge-worked. All softwood plywood imported to Canada carries a 15% duty.

In 1975, essentially nothing entered the United States under the 245.80 category. By 1980, the dollar value entering under 245.80 was about one-third that of plywood entering under 240.21. For each of the past four years the value entering under 245.80 has been about 1½ times the value of 240.21 entries, although the quantity of each has varied in harmony.

At present, the volume of this product entering the United States is not so great as to cause substantial general dislocation. However, one company in Washington state which manufactures cedar plywood for exterior and interior uses has found that its product was being underpriced by Canadian product in direct relation to the difference in the tariff rates for plywood versus building boards.

APA supports enactment of S. 2222 so that this technical problem can be cured before it becomes a substantial economic injury problem. APA support for S. 2222 is not intended as a form of remedy for damage to U.S. industry resulting from imports. The purpose is to clarify the headnote definitions so that essentially the same product is not categorized in two ways with widely divergent duties.

The International Trade Commission has stated that the duty rate on building boards is bound under Article II of the General Agreement on Trades and Tariffs (GATT). The ITC has stated that if the proposed classification change were construed as an increase in duties, the United States could be subject to claims by other countries for compensation concessions, or to retaliatory withdrawal of benefits previously granted to the United States. In APA's view, S. 2222 does not increase the duties. The amount of the duty in none of the affected categories is changed. The only change is to clarify which products belong in which category. Furthermore, because the present trade in edge-worked plywood is not substantial, demands for concessions or any retaliation would be de minimus. If, however, the two-tier plywood interpretation is permitted to stand, the way would be open for substantial Canadian penetration of the U.S. plywood market under circumstances where the two countries have historically agreed to minimize plywood trade through relatively high duties.

As the Administration seeks to open broad bilateral trade negotiations with Canada, it is particularly important that existing aberrations such as the present headnotes be clarified so that any negotiations take place on a level playing field. APA would welcome a lowering of plywood duties between the United State and Canada provided that Canada first revises its product standards and grading system to accept U.S. plywood. Negotiations on that point can better take place if Canadian manufacturers are not in possession of an unintended loophole through which to ship plywood that has been edge-worked.

One technical change should be made in S. 2222 to correct a typographical error in line 5 on page 2. The reference in that line should be to "paragraph (e)" rather than to "paragraph (3)".

Attached is a copy of USTS Schedule 2, Part 3, marked to indicate the changes proposed by S. 2222.

Enclosures

STATEMENT OF JOHN B. REHM, PARTNER, BUSBY, REHM & LEONARD, WASHINGTON, DC; ON BEHALF OF MACMILLAN BLOEDEL, INC., ACCOMPANIED BY MUNFORD PAGE HALL II

Mr. REHM. Thank you, Mr. Chairman. With me today is my colleague, Munford Page Hall. We see really no justification for this bill for three reasons.

First, as the APA has neglected to point out, this very issue is now in the courts. There is a case brought, indeed, by the American Plywood Association in the United States Court of International Trade in New York. We are representing MacMillan Bloedel in that case. All of the necessary formalities have been completed, and we are awaiting a decision either this summer or fall. We would argue that the very pendency of this matter before the courts should lead the committee to set this bill aside.

Second, the bill has no economic justification whatsoever; and that is, to their credit and their candor, admitted by APA. We calculate that the import-consumption ration, taking imports of Canadian building boards and total U.S. consumption of building boards in 1985, was about one-tenth of 1 percent.

In its written comment to this committee, the APA said on page 3: "At present, the volume of this product entering the United States is not so great as to cause substantial general dislocation." Again, on page 4, it said: "APA support for S. 2222 is not intended as a form of remedy for damage to United States industry from imports."

So, we see no economic basis for this bill. APA makes a vague reference to a possible threat. We don't see any evidence of a threat. Indeed, this bill has been around since 1984; and since 1984, there has been no substantial increase in the imports in question.

And finally, on the GATT question, let's be clear. This would clearly violate the GATT. Presently, the products in question come in under item 245.80, as laminated building boards. That is the bound rate in schedule XX to the GATT.

Those products would be shifted either to item 240.21 or item 240.25, depending upon whether they were face finished or not. As APA has testified, and we believe they are right, the present ad valorem equivalent rate under item 245.80 is about 10 percent. The two provisions to which the merchandise would go carry either a rate of 10 or 20 percent. In short, a significant amount of the product would go to a new classification where the rate of duty would be doubled—clearly, a violation of the GATT.

So, in short, we have the pending court case, no economic justification by the very admission of the APA, a clear GATT violation. Why are we considering this bill at all? Thank you, Mr. Chairman.

[The prepared written testimony of Mr. Rehm follows:]

STATEMENT IN OPPOSITION TO S. 2222
SUBMITTED ON BEHALF OF
MACMILLAN BLOEDEL BUILDING MATERIALS DIVISION
MACMILLAN BLOEDEL, INC.
6540 Powers Ferry Road
Suite 200
Atlanta, Georgia 30339
(404) 955-1324

This statement is presented on behalf of the MacMillan Bloedel Building Materials Division of MacMillan Bloedel, Inc., a U.S. corporation that is owned by MacMillan Bloedel Limited, Vancouver, British Columbia. MacMillan Bloedel Building Materials Division imports and distributes building boards and other products manufactured by MacMillan Bloedel Limited.

Background

S. 2222 was introduced by Senator Gorton (R-Wash.) on March 21, 1986. Senator Gorton explained the bill in his statement that was printed at page S 3217 of the March 21, 1986, Congressional Record. Copies of the bill and statement are attached.

S. 2222 would amend the definitions in headnote 1 of Schedule 2, Part 3, Tariff Schedules of the United States (TSUS) to: (i) include edge-worked products in the definitions of "plywood" and "wood-veneer panels"; (ii) remove the chief use requirement from the definition of "building boards"; and (iii) explicitly exclude plywood, wood-veener panels, and cellular panels from the definition of "building boards".

The principal effect of S. 2222, if enacted, would be to shift the classification of products that are made of edge-worked plywood and that are chiefly used in the construction of parts of buildings. They would be removed from item 245.80 of the TSUS, which covers laminated building boards, and shifted to items 240.21 and 240.25 of the TSUS, which cover softwood plywood. This shift would significantly increase the duty on the products in question.

In the case of MacMillan Bloedel, Inc., the product in question, which is presently the subject of a civil action before the U.S. Court of International Trade, is an exterior-grade, softwood-faced siding panel that is edge-worked by being shiplapped. The edge-working affords a weather-tight joint between panels. The face of the panel is texturized to provide a rough-sawn appearance, and it is grooved at intervals for

May 5, 1986

decorative purposes to simulate the appearance of boards. The product is used almost entirely as exterior siding on walls of houses. It has been advanced beyond mere plywood, and it is not saleable or useable for most of the applications for which plywood is typically used.

Discussion

Against this background, the bill is objectionable for the following five reasons.

First, the bill is based upon a misunderstanding of the TSUS definition of building boards. As defined in headnote 1(e) of part 3 of schedule 2 of the TSUS, building boards are panels of rigid construction that are "chiefly used in the construction of walls, ceilings, or other parts of buildings". Therefore, mere edge-working of plywood does not in and of itself qualify the plywood as laminated building boards. The U.S. Customs Service (Customs) must determine that the edge-worked plywood is chiefly used in the construction of parts of buildings. As noted above, MacMillan Bloedel's product is significantly different from plywood and satisfies all the criteria for classification as building boards.

Second, the bill purports to correct an "aberration" that is, in fact, nonexistent. Plywood that has been edge-worked and that is chiefly used in the construction of parts of buildings has been classified as building boards since 1968. In fact, Customs has issued several formal rulings since 1968 classifying such plywood as building boards. Reliance upon such Customs' rulings over a period of about 18 years hardly constitutes the exploitation of an "aberration".

Third, the bill would prejudge an issue that is now before the U.S. Court of International Trade. On August 25, 1983, the American Plywood Association filed with the Court a complaint against the U.S. Government, taking the position that the edge-worked plywood should be classified not as building boards but as plywood. The U.S. Government filed its answer to the complaint on October 31, 1983. MacMillan Bloedel, Inc., is a party in interest in the action. The Court is not likely to issue its decision before the fall of 1986. The Congress should therefore defer any action until the courts have finally resolved the issue.

Fourth, the bill would violate the General Agreement on Tariffs and Trade (GATT) and thereby injure other U.S. industries. The rate of duty in item 245.80 is bound in the U.S.

Schedule XX to the GATT. That is, the United States has undertaken a formal international obligation not to change this rate except in accordance with specific procedures prescribed by the GATT. Since S. 2222 would not comply with such procedures, it would violate the U.S. obligation. Such violation would cause other U.S. industries to suffer. The United States would either have to pay compensation in the form of reduced duties on imports or suffer retaliation in the form of increased duties on exports.

Fifth, the bill cannot by any stretch of the imagination be justified on economic grounds. When Canadian imports of building boards made from edge-worked plywood in 1985 are compared to the apparent U.S. consumption of building boards, the import-consumption ratio is minuscule. Taking 5/8" as the standard thickness of building boards, which are typically edge-worked, Canadian imports of building boards made from edge-worked plywood were 1.7 million square feet and the apparent U.S. consumption of all types of building boards, including those made from edge-worked plywood, was no less than 1.6 billion square feet - for an import-consumption ratio of 1/10 of one percent in 1985. Such imports could not possibly cause or threaten any injury to the domestic industry.

This statement is submitted on behalf of MacMillan Bloedel Building Materials Division of MacMillan Bloedel, Inc., by its Washington, D. C., counsel, John B. Rehm, Busby, Rehm and Leonard, P.C., 1330 Connecticut Avenue, N.W., Suite 200, Washington, D. C. (202) 857-0700.

Attachments

Senator **Danforth**. Mr. Barnes, if this is a matter that is before the courts, why should we decide it in Congress?

Mr. **Barnes**. Between the Customs Service and the courts, this issue has been in the administrative and judicial process for about 5 years. Interestingly, I understand it was argued in the court case briefs by the Canadian interests that Congress had already taken care of the matter; they apparently referred to the bill not having been enacted in this Congress; obviously, it is presently pending in this Congress.

We believe now is an appropriate time to act on it. Although in the context of overall plywood and building board imports, the impact of a relatively specialized subproduct within that category is not substantial, there are certain U.S. manufacturers who do find an impact. One of APA's members, for example, found his domestic product being undersold by approximately the difference in the tariff.

We think that S. 2222 is essentially a technical clarification of an ambiguity; now is an appropriate time for Congress to clarify that. It is easier to fix the roof when it is not raining than when it is pouring. The committee is certainly aware of other wood products disputes with Canada that have become much more substantial, and that are harder to fix than if they had been addressed earlier.

Senator **Danforth**. This is a matter that is before the courts. Correct?

Mr. **Barnes**. It is before the Court of International Trade. That is correct.

Senator **Danforth**. Yes.

Mr. **Barnes**. It is on an appeal from a Customs Service determination that goes back to the early stages of the importation of the product when Customs reached a determination that it should be in the building boards category.

Senator **Danforth**. Let me ask this. These are your exhibits. Is one of these plywood and the other building board?

Mr. **Barnes**. The one in your right hand—the smaller one—is the Canadian product that is imported under the building boards category although, if you will note, the Canadian manufacturer's label on the back calls it plywood. The other one is U.S.-manufactured plywood. They both are red cedar faced plywood used for the same kinds of purposes.

Senator **Danforth**. But I mean, supposing the one in my left hand came in from Canada? Would this be characterized as plywood or building board? Do you know?

Mr. **Barnes**. We believe it would be characterized as plywood. It does not have the edge working on the edge.

Senator **Danforth**. In other words, the difference is the edge? Is that right, Mr. Rehm?

Mr. **Rehm**. There are two tests, and APA has consistently failed to point this out. One is edge working, and the other, by the very headnote we are talking about defining building boards, is that the product must be chiefly used in the construction of buildings. So, you have two tests that must be satisfied.

Senator **Danforth**. Isn't all plywood principally used in the construction of buildings?

Mr. **Rehm**. No, I don't believe so. No.

Mr. BARNES. Some plywood is used in furniture manufacture, or for industrial purposes, but principally, plywood is used in building construction.

Mr. REHM. But my point is that not all plywood is; so you have two tests to satisfy.

Mr. BARNES. Well, the headnote doesn't say "all"; it says "principally" as you pointed out. The plywood definition also includes products, the face of which has been mechanically scored, striated, or similarly processed. The striations down the middle still leave it in plywood. The fact that one happens to be down the edge apparently is moving it to building boards.

Senator DANFORTH. But the basic difference is that the one has the groove on the edge, rather than just grooves in the middle? That is the difference between the two?

Mr. BARNES. Yes.

Mr. REHM. Yes.

Senator DANFORTH. You would agree, wouldn't you, Mr. Rehm, that it is absurd to treat two identical things differently because one has a groove down the edge?

Mr. REHM. No, I would not because, in Customs' view, and we agree with their position, that product that you are holding in your hand that has been edge-worked, is dedicated for a special use; namely, to be used in the construction of exterior walls of buildings. That is not true of a simple piece of plywood that has not been edge-worked. It cannot be readily used in order to shed rain and the like on the exteriors of buildings. So, the edge-working is a critical distinction that dedicates a product to a special use consistent with the definition of building boards. It may seem slight to you, and I understand that; but it plays a very critical role in the marketing and use of the product.

Senator DANFORTH. What is the difference? One is at 20 percent? And the other is at what?

Mr. REHM. We are talking about two provisions that it would shift over into, depending upon whether the product is face finished or not. It would either be 10 percent, roughly the same as the present rate, or 20 percent, twice the rate.

Senator DANFORTH. Let me ask you this. Whether they are the same or not—they kind of look the same to me—but whether they are the same or not, don't you think that they should have the same tariff rate?

Mr. REHM. Well, if they were truly identical products, I would fully agree; but we don't agree that they are identical products.

Senator DANFORTH. Let's suppose they are not. I mean, I won't argue that with you right now, but let's suppose that these are entirely different because of the grooves. Don't you think they should have the same tariff rate?

Mr. REHM. Not at all. Different products normally carry different tariff rates.

Mr. HALL. If I may, Mr. Chairman, the difference now as the law presently stands between the one product—the domestic product—and the imported product you are holding in your hand is that the domestic product is considered—and I think rightfully so—by the United States Customs Service under the law to be the basic material from which the product that you are holding in your hand is manufactured.

Now, the representative, Mr. Barnes of the American Plywood Association, has mentioned the striations. The striations on the face of each of those is not functional. That is a decorative striation. The edge-working, in opposition to that, is functional. Edge-working is so that the panels may be joined on the side of a building as siding to keep out moisture and water from the building. So, that is the difference. Although the products may look similar, they are different.

Senator **Danforth**. So, in other words, if you were in the plywood business in the United States that would really sell you. One has a groove.

Mr. **Hall**. If I might, Mr. Chairman, one would actually pay a higher price for the siding that has edge-working and is dedicated to use. The sample that you hold in your hand is an exaggerated sample of a small edge-working. That is called a grooved product.

Normally, plywood siding that is imported into the United States has a ship-lapped edge, and I would be glad to provide the chairman and the subcommittee with a sample of the product with the normal ship-lapped edge, which is more like 2 inches than what appears to be about one-eighth of an inch edge-working on that particular product. [The sample provided at the hearing had a seven-sixteenths of an inch edge-working, not one-eighth.]

Senator **Danforth**. All right. I very much appreciate your testimony. It has been very edifying. And we will consider this and all the other bills that have been presented to us today. Thank you.

Mr. **Rehm**. Thank you very much, Mr. Chairman.

[Whereupon, at 5:10, the hearing was adjourned.]

[By direction of the chairman the following communications were made a part of the hearing record:]

Statement of
C. Michael Hathaway
Senior Deputy General Counsel
Office of the United States Trade Representative

Before the
Subcommittee on International Trade
Committee on Finance
United States Senate

May 8, 1986

Statement of
C. Michael Hathaway
Senior Deputy General Counsel
Office of the United States Trade Representative

Before the
Subcommittee on International Trade
Committee on Finance
United States Senate

May 8, 1986

My name is C. Michael Hathaway. I am the Senior Deputy General Counsel in the Office of the U.S. Trade Representative. I am appearing to express the opposition of the Administration to S. 1709. This bill would, for a period of five years, return the ad valorem and specific duties on necktie imports to the levels in effect as of January 1, 1981.

Necktie imports are covered by seven items in the Tariff Schedules of the United States (TSUS). As a result of the Tokyo Round of multilateral trade negotiations, the rate of duty for each of the seven TSUS items is bound. The table below lists the final bound rate for each item and the rate of duty proposed in S. 1709.

TSUS Item	GATT Bound Duty Rate	S. 1709 Proposed Duty
373.05	14.9%	21%
373.10	8%	16.5%
373.15	8%	37.5 ¢/lb + 10.5%
373.20	8%	10%
373.22	8%	16%
373.25	8%	12 ¢/lb + 16%
373.30	8%	10%

In each case the rate of duty proposed in S. 1709 exceeds the bound rate. If the bill were enacted, the United States would be required to compensate our trading partners. For woven silk neckties alone (TSUS 373.22) required compensation would amount to over $2 million.

Thank you for the opportunity to explain the reason for our opposition to this bill. I would be pleased to answer any questions you may have.

A

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
1735 NEW YORK AVENUE, N.W., SUITE 500
WASHINGTON, D.C. 20006-4759
(202) 628-1700

TELEX 904059 WSH TELECOPY (202) 331-1024

EMANUEL L. ROUVELAS
JONATHAN BLANK
TOVAH THORSLUND
LLOYD MEEDS
ROBERT E. VAGLEY
WILLIAM H. MYHRE
JOHN W. ANGUS, III
RICHARD L. BARNES
KENNETH R. KAY
JAMES T. LLOYD
ALAN R. YUSPEH
KATHRYN P. BRODERICK
SUSAN B. GEIGER
JOHN LONGSTRETH
DEBRA T. BALLEN
HENRY C. EISENBERG*

COUNSEL
JOHN P. FORD
CRAIG J. GEHRING

*MASSACHUSETTS STATE BAR ONLY

SEATTLE, WASHINGTON 98104-7011
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
(206) 623-7580
TELEX 4740035 TELECOPY (206) 623-7022

ANCHORAGE, ALASKA 99501
420 L STREET, SUITE 404
(907) 276-1969
TELECOPY (907) 276-1365

SPOKANE, WASHINGTON 99210-0836
SUITE 1480
SEAFIRST FINANCIAL CENTER
(509) 624-2100
TELECOPY (509) 456-0146

PRESTON, ELLIS & HOLMAN
PORTLAND, OREGON 97204
1230 S.W. 1st AVENUE, SUITE 300
(503) 225-0815
TELECOPY (503) 248-9085

May 16, 1986

Honorable John Danforth
Chairman, Subcommittee on
International Trade
Committee on Finance
United States Senate
SD-219 Dirksen Senate Office
Building
Washington, D.C. 20510

Dear Senator Danforth:

The American Plywood Association appreciates very much the opportunity it had to testify before you May 8 on S. 2222, legislation concerning tariffs on plywood and building boards. You noted, after examining two sample panels, that it is absurd to treat two identical things differently because one has a groove down the edge. You have reached the heart of the issue, and we agree that it indeed is absurd. I would like to expand on several points touched on during our testimony, and I ask that this letter be included in the hearing record.

I. Language of the Tariff Schedule

Opponents of S. 2222 attempt to distinguish the edge-worked Canadian import as a product that is substantially advanced beyond plywood and is used in special applications for which plywood is not suitable. The language of the headnote and the description of articles in the TSUS do not support this distinction. The Canadian product certainly is within the description of "plywood" in the headnote. There is no characteristic of the Canadian product which excludes it from the plywood definition, and no element of the plywood definition which the Canadian product does not satisfy. Note that the plywood definition in the headnote makes no specific reference to edge-working, and certainly does not exclude an edge-worked panel from the definition. Edge-working, indeed, is within the scope of "mechanically scored, striated, or similarly processed". The process of edge-working is very similar to the process of striating in that the nearly-completed panel is moved through a device which machines the striation or edge groove. Note that the plywood definition does not distinguish between decorative and functional scoring, striation or similar processing.

The Canadian product also is within the headnote's definition of "building boards' in that it is a panel of rigid construction chiefly used in the construction of walls, ceilings or other parts of building. However, the entire category of plywood also fits within the building boards definition. Plywood clearly is a panel of rigid construction, and at least 63% of U.S.-made plywood is used in the construction of walls, ceilings, or other parts of buildings according to recognized industry statistics compiled by the American Plywood Association. That percentage certainly is sufficient to satisfy the requirement of "chiefly used".

Opponents of S. 2222 make much of the assertion that the edge-working of the Canadian product enables it to act as a barrier to water entering a building. (So does mounting flat-edged plywood with a batten or double-hanging thinner sheets of plywood.) But there is nothing in the building boards definition or article terminology that concerns itself with the sophistication of application of a product. The only use requirement for building boards is that they be used chiefly in the construction of walls, ceilings, or other parts of buildings. As noted, the entire category of plywood meets that definition.

It is apparent from the headnote descriptions that while all plywood fits within the definition of building boards, all building boards do not fit within the definition of plywood, nor within the other three product categories defined in the headnote. Building boards obviously is a catch-all category designed to include items not otherwise defined.

Turning from the headnote definition to the listing of articles under those headnotes, separate tariffs are provided for a number of articles within the categories of wood veneers, plywood, wood-veneer panels, and cellular panels.

After the listing of articles in these categories and at the end of part 3 of schedule 2 of the TSUS is listed the article "Building boards not specially provided for." (Emphasis added). It is apparent that this category is designed to include items that have not been specially provided for elsewhere in part 3 through their listing under the categories of wood veneers, plywood, wood-veneer panels, or cellular panels. Since, as shown above, the Canadian product is within the definition of plywood, then it has been specially provided for and should not be considered in the catch-all building boards category.

A copy of part 3 of schedule 2 of the Tariff Schedules of the United States Annotated (1986) is enclosed.

II. Economic Justification and GATT Considerations

Opponents of S. 2222 state that there is no economic justification for clarifying the headnote. At the same time, they raise the spectre of GATT retaliation if the bill is enacted. But if there is no economic justification for the bill, then there is no economic basis for retaliation.

The facts of the matter are that present imports from Canada of this particular red cedar siding product are quite small when measured against overall U.S. plywood production. However, they are substantial from the standpoint of a particular manufacturer making the particular line of cedar-faced plywood with which the Canadian product competes.

Furthermore, if the Canadian-favored interpretation is permitted to stand, more than 20 per cent of U.S. plywood production would be at risk. Of the nearly 22 billion square feet of U.S. plywood production, more than 3 billion is tongue-and-groove plywood used in flooring, and nearly 2 billion is edge-worked siding of various species. If the Canadian red cedar edge-worked siding continues to be permitted to enter under the building boards category, then the way would be open for Canadian-produced tongue-and-groove flooring and edge-worked siding of other species to also evade the plywood tariff.

It also should be noted that substantial plywood tariffs exist between the United States and Canada because Canada refuses to recognize U.S. plywood performance standards that are accepted throughout the rest of the world.

In all, it seems much more appropriate to clarify now the headnote which the Customs Service has made ambiguous, when the economic impact is small, rather than try to do it at some future point when more than 20 per cent of the U.S. plywood industry may be being injured. You and the Committee are well aware of the increasing difficulties caused by the softwood lumber dispute with Canada, which has been permitted to intensify the past several years. If the Government of Canada has a problem with this clarification (but we are aware of no testimony from the Government of Canada), it can be considered in the context of the forthcoming U.S.-Canada Free Trade Agreement negotiations.

III. Forum For Resolution of This Issue

Opponents of S. 2222 argue that Congress should not enact this legislation because the Customs Service interpretation of the headnote is an issue before the U.S. Court of International Trade. But in those proceedings, the same opponent who testified before the Committee argued that the Court should not clarify the headnote because Congress has not enacted this legislation. The only point at issue in the Court of International Trade is the Customs Service interpretation of the headnote created by Congress. At best, the Court can only agree or disagree with the Customs Service interpretation. Congress, however, can go to the root of the problem by directly clarifying the headnote. This, of course, is appropriate at any point.

In conclusion, Mr. Chairman, we again express our appreciation for the insight you have demonstrated upon exposure to this rather narrow issue. We urge that the provisions of S. 2222 be included in an appropriate tariff or trade bill this year so that this problem can be rectified. It also should be noted that identical language is included as Section 815 of H.R. 4800, the omnibus trade bill on which the House of Representatives is expected to vote shortly. Please feel free to have your staff contact me with any questions or comments concerning S. 2222.

Sincerely,

PRESTON, THORGRIMSON,
ELLIS & HOLMAN
Counsel for American Plywood
Association

By Richard L Barnes
Richard L. Barnes

RLB:vy

STATEMENT
ON BEHALF
OF
THE AMERICAN SHIP BUILDING COMPANY

BY
GERALD A. MALIA
RAGAN & MASON
WASHINGTON, D.C.

TO THE

INTERNATIONAL TRADE SUBCOMMITTEE
OF THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

ON

S. 1981

WASHINGTON, D.C.
MAY 8, 1986

Mr. Chairman, Members of the Subcommittee:

I am Gerald A. Malia, a partner in the firm of Ragan & Mason, Washington, D.C. I am appearing on behalf of The American Ship Building Company, Tampa, Florida.

We appreciate the opportunity to appear today to present American Ship's views on this important legislation.

The American Ship Building Company strongly supports this legislation to impose a 6.5 percent duty on surimi imported into the United States.

Mr. Chairman, we hope that our comments on S. 1981 will be of use to the Subcommittee in its efforts to finalize this measure and to achieve the realization of this important legislation.

On April 23, 1986, the Company submitted a letter to Senator Danforth in support of the bill. A copy of that letter is attached to this statement.

The Tampa facilities of The American Ship Building Company have a modern, newly-constructed yard engaged in the construction, conversion and repair of vessels. During recent years American Ship has invested over $60,000,000 in new facilities in Florida for building, converting and repairing vessels.

It is American Ship's intention to go into the surimi business and to construct new vessels at the Tampa Shipyard. We have already invested over $500,000 in this project. This investment has included such activity as naval architects' fees and other expenses for initial vessel design, and, expenses for business trips to Japan to explore business prospects and to study the Japanese approach.

Specifically, American Ship is considering the construction of several new vessels to enter in the business of catching and processing Alaska Pollock into Surimi and the sale thereof to the export market and U.S. market.

American Ship strongly supports the 6.5 percent tariff on imports of surimi into the U.S. from foreign sources, because there are import tariffs and quotas on the sale of U.S. surimi into those countries (i.e. Japan).

We do not believe this bill is "protectionist". It simply responds to a situation and brings equal treatment to surimi.

I appreciate the opportunity to appear before you today to present our views on this bill. I will be happy to answer any questions you might have.

Thank you.

THE AMERICAN SHIP BUILDING COMPANY

TIVE OFFICES

April 23, 1986

Honorable John C. Danforth, Chairman
Subcommittee on International Trade
Committee on Finance
United States Senate

Dear Mr. Chairman:

Your Subcommittee is presently scheduled to hold a hearing on May 5 on several tariff bills. One of the bills before your Subcommittee is S.1981, introduced by Senator Frank Murkowski and cosponsored by Senators Stevens, Heinz, Grassley, and McClure, to impose a 6.5 percent tariff on surimi imported into the United States. Our company supports this legislation for many of the same reasons articulated by Senator Murkowski in his introductory remarks on December 18, 1985.

We are engaged in developing a program to introduce an American competitor into the surimi market. Current projections show surimi to have a very substantial market potential in the United States. Japan is presently both one of the world's largest consumers as well as producers of surimi. The Japanese surimi industry is thus much more well-established than is the American industry. It is clear that the Japanese surimi industry finds the American market an attractive opportunity for expansion.

Japan now levies a 6.5 percent tariff on surimi imported into that country by non-Japanese operators. It creates a sharp imbalance in the competitive position of U.S. and Japanese interests. The proposed legislation would rectify this imbalance by putting Japanese interests in the same position relative to the American market as American interests are in with regard to the Japanese market.

Because S.1981 would restore equality of competitive opportunity, we urge that it be given favorable consideration by the Subcommittee so that it may be enacted at the earliest practicable date.

Sincerely,

H. Allen Fernstrom

H. Allen Fernstrom
President

STATEMENT OF DWIGHT C. MINTON
CHAIRMAN OF THE BOARD,
CHURCH AND DWIGHT CO., INC.,
IN SUPPORT OF S. 1987

I would like to thank the Trade Subcommittee for inviting me to testify at today's hearing.

Church and Dwight supports S. 1987 because it would establish a fair tariff rate for sodium bicarbonate. We have presented our case in detail in previous submissions to this Committee. Today I would like to express my own personal feelings as to why this bill is necessary.

Our company's goal is to be able to sell our sodium bicarbonate in foreign countries and compete on an equal basis in world markets. We cannot do that today.

International trade in sodium bicarbonate is becoming more important each year, a trend which promises to continue. We are facing growing import competition here in the U.S., and we must be able to compete in foreign markets.

In a fair trading environment, Church and Dwight and the U.S. industry can compete effectively, not only in the United States, but on the home territory of our competitors as well. It is my firm belief that we manufacture sodium bicarbonate with the best technology in the world, and use less energy, fewer man hours, and less hardware than anyone else. In addition, we have the advantage of a unique raw material source -- natural soda ash produced in Green River, Wyoming -- which allows us to run what is very likely the world's lowest-cost soda ash production plant. From this base, we can be the strongest competitor in world markets, and given fair trade rules, I think we would be.

Unfortunately, U.S. producers are almost completely blocked from exporting by high tariffs and other foreign trade barriers. Our competitors stand behind their borders, protected by tariffs, customs regulations, and import licensing schemes, so that we cannot penetrate their markets under any circumstances to sell our products. For example, Mexico, a potentially large market for U.S. sodium bicarbonate, prohibited all imports until last year, and now imposes a 40% tariff. This makes it impossible for us to compete. The same is true of a number of other potential markets. Brazil and Chile charge a 30% duty, Argentina imposes a 35% duty, and the European Community imposes a 10% duty.

By contrast, the United States maintains an absolutely open border and imposes no tariff whatsoever. Therefore, foreign producers can price on an incremental basis and come into our market and be effective competitors.

I believe that a twenty percent U.S. import duty is necessary to create a fair trading environment. Naturally, we would prefer to open foreign markets to U.S. sales, and we have met with Administration officials to urge efforts to reduce foreign duties. But since our trading partners are unwilling to reduce their barriers, a higher U.S. duty is the only effective way I know to create a level playing field. We simply feel that it is not fair for other countries to be allowed to compete in our market when we cannot compete in theirs.

F

Statement of

THE FERTILIZER INSTITUTE

before the
Subcommittee on International Trade
Senate Committee on Finance

on
S. 1865

May 14, 1986

The Fertilizer Institute
1015 18th Street, N.W., Washington, D.C. 20036
202-861-4900 Telex 89-2886

Summary

The elimination of non-tariff barriers have been identified as a top priority in the next round of Multilateral Trade Negotiations (MTN). However, there also should be a substantial effort to reduce tariffs especially on U.S. exports for those products entering the U.S. duty free. In this connection, tariff reductions on an individual industry basis, or on a sectorial basis, would be much more effective than resorting to a formula cut basis.

Therefore, The Fertilizer Institute* respectfully requests that in considering S. 1865, the Subcommittee on International Trade include the following requirements for U.S. trade negotiations:

> U.S. trade negotiators should seek reduction of tariffs on a product-by-product basis rather than using a formula applied broadly to all products. Additionally, the U.S. will insist on a priority for reduction or elimination of tariffs for groups of products entering the U.S. duty free but which face tariffs imposed by other importing countries.

Importance of Exports to U.S. Fertilizer Industry

The United States fertilizer industry generates sales of approximately $8-9 billion per year, about 40% of which is in exports. The industry supports a large employment base within the U.S., and impacts many sectors of the U.S. economy, including the consumer food supply. The industry is currently very concerned about unfair trade practices, import quotas, and import duties, all of which take a financial toll on U.S. exporters and threaten the future health of fertilizer manufacturers in the U.S.

The U.S. industry exported fertilizers with a total value of $3.1 billion at U.S. port in the twelve months ending June 30, 1985. Fertilizer exports from the U.S. grew rapidly in the 1970's, doubling between 1975 and 1980. Exports for the year ending June 30, 1981, were at record levels for U.S. producers. During that year, products valued at $3.2 billion were exported, including more than one billion dollars worth of ammonium phosphates. Tonnage of finished fertilizers exported in 1981 were 30 million, with 14 million tons of phosphate rock. Total export value dropped in 1982 and 1983 due primarily to world economic conditions. A modest recovery began in 1984 and continued into 1985, when total value again exceeded $3 billion.

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*The Fertilizer Institute is a non-profit trade association of the fertilizer industry and represents, by voluntary membership, more than 90 percent ot the nation's fertilizer industry. Producers, manufacturers, retailers, trading firms, and equipment manufacturers who comprise its membership are served by a full-time Washington, D.C. staff in various legislative, educational and technical areas, as well as with information and public relations programs.

Ammonium phosphate, which is an important fertilizer intermediate, and phosphate rock are the largest dollar volume fertilizer products exported. The capacity to export phosphate rock, which is an important fertilizer raw material, was developed first, using the abundant reserves in the state of Florida. Later, as more upgrading capacity became available, the industry shifted more to exporting of value-added products in the form of ammonium phosphates and other phosphate fertilizer products.

The export value of diammonium phosphate, the most popular ammonium phosphate product, reached one billion dollars in 1981 and has stayed near that level in each year since. The record year for exports of diammonium phosphate was 1985, with a total export value of $1.3 billion. Other individual products, including phosphoric acid, nitrogen fertilizers such as anhydrous ammonia and urea, and potassium chloride provided smaller but significant contributions to the total export value.

TABLE I

U.S. Fertilizer Exports
Year Ending June 30, 1985

Product	Value of Exports $ millions
Diammonium Phosphate	1,277.3
Phosphate Rock	370.1
Urea	208.1
Concentrated Superphosphate	185.4
All Products	3,079.0

Country	Value of Exports $ millions
India	450.6
China	275.2
Canada	263.0
Belgium-Luxembourg	224.2
USSR	208.9
World Total	3,079.0

The U.S. is a world leader in both production and consumption of fertilizers. In 1985, approximately 35 million metric tons of fertilizer phosphate expressed as P_2O_5 were produced worldwide, and 34 million were consumed. Of these totals, the U.S. produced 23 percent and consumed 12 percent. In the same year (1985), approximately 75 million tons of nitrogen (N) were produced and 70 million consumed in the world, with the U.S. producing 17 percent and consuming 15 percent of these totals. The U.S. also contributes to the world's needs for potash, which is the third major plant nutrient, producing 5 percent and consuming 19 percent of the world totals in 1985.

When we consider that the U.S. industry represents up to 25 percent of the total world potential for production and consumption of key fertilizer products, the industry's concern over unfair trade practices and other barriers to efficient allocation of the world's resources becomes clear. If we assume that only fertilizer production which is in excess of a country's domestic consumption needs is available for export, the U.S. industry represented 44 percent of world export potential in 1985. Despite the dependence of many countries on plant food exports from the U.S., the industry is now subject to a variety of problems in international trade.

Cost of Tariffs to the U.S. Fertilizer Industry

Import tariffs charged in fertilizer products exported from the U.S. are costing the U.S. industry $150-200 million per year, based on calculations using published tariff tables provided by the U.S. Department of Commerce (USDC). The import tariffs, which represent cost, or lost value, to U.S. fertilizer producers, range from 4 percent to 100 percent of declared value including freight, depending on the product.

TABLE II

Country	Range of Tariffs	Calculated Tariff Cost to U.S. Exporters FY '85
	(percent)	($ million)
EC	4 - 13	16.6
Far East		
Pakistan	6 - 85	37.5
South Korea	5 - 25	19.5
India	0 - 60	10.2
Taiwan	5 - 25	7.1
Philippines	10 - 20	2.3

TABLE II
(continued)

Country	Range of Tariffs	Calculated Tariff Cost to U.S. Exporters FY '85
	(percent)	($ million)
South America		
Brazil	10 - 80	20.5
Chile	20	6.2
Venezuela	1 - 100	3.4
Mexico	40	3.0
World Total (includes countries not listed above)		148.9

The U.S. does not impose import tariffs on fertilizer products from any country and has not since 1922. Many countries which impose heavy tariffs on fertilizer imports from the U.S. enjoy duty-free access to markets in the U.S. Fertilizer producers in these countries, often operating with direct or indirect government subsidies, are free to compete with U.S. producers for u.S. domestic markets, while penalizing U.S. product entering their own borders.

In addition to tariff barriers on fertilizer imports, which tend to eliminate trade potential in some regions, the U.S. industry also is subject to a variety of non-tariff barriers. These non-tariff barriers to free trade include import quotas and product specification requirements.

Product specifications are being used increasingly as an impediment to free trade and as a potential tool for discrimination against U.S. producers. A recent well-publicized case against the European Community (EC) demonstrated that requirements for water solubility in concentrated superphosphate being imported into the EC could be used to discriminate against American product in favor of North African material. Other product standards, such as those for chlorine and biuret content, have been used in a discriminatory manner.

Import quotas also impede fertilizer trade. A recent quota on imports of ammonium phosphates into the EC was imposed as a retaliation to something totally unrelated to fertilizer trade, and yet will result in about 30-35 percent reduction in imports of these products to that region from the U.S.

The United States has not imposed tariffs on fertilizer imports since 1922; fertilizers from any source are imported duty free. And yet, as a large volume shipper of phosphate and nitrogen fertilizers, we are subject to large import tariffs on products we export. The United States in its trade negotiations, should insist on reciprocity in trade practices. If the export products of a country enter the U.S. duty free, that country should permit U.S. products to enter duty free also.

Napp Chemicals Inc.

199 Main Street, P.O. Box 4900, Lodi, New Jersey 07644 • (201) 773-3900
(212) 695-5686
TELEX 134649

May 7, 1986

The Honorable John C. Danforth, Chairman
Subcommittee on Trade
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

Re: H.R. 2313

Dear Mr. Chairman:

I am writing you today to express Napp Chemical's very strong opposition to S1651, a bill proposed to suspend for an additional three years the duty rate on p-hydroxybenzoic acid (PHBA).

PHBA is a chemical intermediate used to produce a number of different esters (methyl, ethyl, propyl, and butyl) commonly known as "Parabens". Parabens are primarily used as antimicrobial agents for cosmetics, food, and pharmaceuticals. These esters are nontoxic and approved as "GRAS" by the Food and Drug Administration; yet domestic production of Parabens has dropped off precipitously in recent years owing to "inexpensive import competition".

Napp Chemicals, a basic domestic producer of Parabens, has recently completed construction of a new plant in Lodi, New Jersey designed for the sole purpose of producing PHBA. This domestic production, the first of its kind in more than 20 years , has already commenced. Our investment in this plant was $2.5 million; $2.0 million of which was financed by a loan authorized by the State of New Jersey Economic Development Authority as part of its efforts to develop new job opportunities for New Jersey workers. Accordingly, our Company also committed to this State Agency to provide new job opportunities to the local work force upon completion of construction.

The plant has the capacity to produce three million pounds of PHBA annually; approximately equal to total U.S. domestic consumption for calendar 1984. This plant was also designed so that capacity could be increased to eight million pounds, to satisfy additional domestic demand. From the initial 3 million lbs. to be produced we plan to consume internally approximately 850,000 lbs. and market domestically the remaining capacity. As of this writing the plant is still being brought through shakedown trials and is producing at the rate of 750,000 lbs./year at the moment. Within a few months, full scale production should commence.

Continued.....

The Honorable John C. Danforth
Page2
May 7, 2986

Our Company's investment in this PHBA plant is substantial and the jobs it represents would be seriously jeopardized if the current (self-reducing) 7.9% ad valorem GSP duty rate for PHBA is not continued under USTS #404.42. Its reinstatement has only partially offset the significant advantages import competition already enjoys.

When our Company decided to make this investment in 1983, PHBA was selling for about $1.90/lb. As a result of exchange rates PHBA sold for about $1.45/lb. in December of 1985 which is close to our marginal cost of production. Current prices have increased somewhat. If PHBA were to be permitted to enter the United States "duty free", we anticipate that production at our new plant will have to be cut back. If the PHBA plant volume is reduced, the lack of overhead absorption would also force us to reduce both experienced and newly hired personnel. Continued suspension of the duty could also signal to import competition that the Senate sanctions further incursions into our domestic market place.

Any suspension of the current duty would have a devastating effect on our fledgling new PHBA plant and those recently employed to operate it. We strongly urge that the bill to suspend this duty be defeated.

We would be pleased to answer any questions you or your staff may have in this connection and further request the opportunity to present oral testimony in opposition to S1651 at any hearings that may be held on this bill in the future.

Very truly yours,

Holbrook Bugbee (mcg)
Holbrook Bugbee
Executive Vice President

HB:mcg